UNION BUDGET 2023

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HIGHLIGHTS OF UNION BUDGET 2023

- Scheme of concessional rate of taxation proposes to become Default Tax option. However, citizens can opt for normal tax option.

- No change in personal Income tax rates under normal tax option.

- Personal Income tax slabs proposed to be revised under the scheme of concessional rate of taxation.

- Basic Exemption Limit to be enhanced to ₹3,00,000 under the scheme of concessional rate of taxation.

- Benefit of Standard deduction up to ₹50,000 u/s 16(ia) introduced for salaried individuals and pensioners under the scheme of concessional rate of taxation.

- Deduction from family pension up to ₹15,000 u/s 57(iia) introduced under the scheme of concessional rate of taxation.

- Tax rebate limit u/s 87A proposed to be increased to ₹7 lakhs from ₹5 lakhs for assessees opting for concessional rate of taxation as a result, tax rebate limit to be increased from ₹12,500 to ₹25,000/-.

- Highest surcharge rate on income above ₹5 Crores to be reduced from 37% to 25% under the scheme of concessional rate of taxation. This will result in reduction of Maximum personal income tax rate to 39%.

- Scheme of concessional rate of tax proposed to be applicable to AOPs (other than co-operative societies), BOIs, and Artificial Juridical Persons.

- Tax exemption limit proposed to be increased from ₹3 lacs to ₹25 lacs for leave encashment on retirement for non-government salaried employees. This is announced in the Budget speech, but an amendment in Statue is awaited.

- New co-operative societies that commence manufacturing till March, 2024 to get concessional tax rate of 15%.

- Sections 194BA & 115BBJ introduced for TDS @30% on income from online gaming.

- The threshold limit for TDS on cash withdrawal u/s 194N to be raised from ₹1 crore to ₹3 crores for co-operative societies.

- TDS rate proposed to be reduced from 30% to 20% on taxable portion of EPF withdrawal in non-PAN cases.

- TCS rate proposed to be increased from 5% to 20% for overseas tour packages.

- The exemption from TDS on interest payments to resident listed debenture holders proposed to be removed.

- Tax treaty benefits with respect to withholding tax on income in respect of units of mutual fund will be available to non-residents, subject to non-residents furnishing a tax residency certificate.

- A new provision has been proposed to address TDS mismatches by making an application in prescribed form to AO within 2 years from the end of the year in which tax is deducted.

- Sections 206AB and 206CCA amended to exclude certain persons from scope who are not required to file Return of Income.

- Receipts arising from life insurance policies issued on or after 01-04-2023 to be taxed under IFOS if the premium exceeds ₹5 lakhs. The exemption for receipts in the event of insured person's death remains unchanged.

- Clarificatory amendment proposed to include cash benefits within the ambit of the benefit or perquisites chargeable to tax u/s 28(iv).

- Penalties u/s 271C and prosecution u/s 276B will be initiated on failure to withhold taxes u/s 194R or Section 194S on benefits given in kind.

- To prevent double deduction of interest on housing loan, it is proposed to exclude interest claimed u/s 24 from cost of acquisition or improvement.

- Receipts from the 'Agniveer Corpus Fund' by a person enrolled under the 'Agnipath Scheme 2022' shall be exempt from tax u/s 10(12C).

- Deduction u/s 80CCH introduced under normal tax rate option as well as concessional tax rate scheme for Individuals enrolled in Agnipath Scheme on or after 01-11-2022.

- The Central Government's contribution to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme to be taxed as Income from salary u/s 17.

- Payment to MSME beyond time limits specified in MSMED Act will be allowed as deduction only on payment basis u/s 43B of the Act.

- Non-Banking Financial Companies (NBFCs) proposed to be notified for the purposes of Sections 43B and 43D of the Act.

- Threshold limits for presumptive taxation schemes u/s 44AD and 44ADA proposed to be increased from ₹2 crores and ₹50 lakhs to ₹3 crores and ₹75 lakhs respectively, if at least 95% of receipts & payments are made through non-cash methods.

- Assessee who declares profits on presumptive basis as per Section 44AD and 44ADA then, provision of Section 44AB shall not apply.

- Restrictions proposed for set off of losses and unabsorbed depreciation for assessees opting for Presumptive Tax Scheme u/s 44BB and 44BBB of the Act.

- Full Value of Consideration as per provision of Section 45(5A) of the Act shall be aggregate of Stamp Duty Value of Assessee share and any consideration in cash or by cheque or draft or by any other mode.

- Conversion of Physical Gold into Electronic Gold Receipts & vice versa by a Vault Manager registered with SEBI shall not be liable to capital gains tax.

- Time limit for transferring assets from the original fund, or its wholly owned special purpose vehicle, to a resultant fund in event of reallocation is extended from 31/03/2023 to 31/03/2025.

- Capital Gains arising from transfer/ redemption/ maturity of 'Market linked Debenture' (listed) taxable as short-term capital gains w.e.f. 1st April 2024.

- Exemption from Capital Gains on Re-investment in Residential House u/s 54 and 54F of the Act is proposed to be capped at ₹10 crores.

- Cost of Acquisition of any intangible asset or any other right (not already included in the ITL) will be Nil w.e.f. 1st April 2024.

- Distributions by Business Trusts to unit holders which are not taxed u/s 115UA proposed to be taxed u/s 56 as income from other sources in the hands of unit holders.

- Gift of any sum of amount, referred to u/s 56(2)(x), received by Not-Ordinarily Resident (NOR) from Person Resident in India shall be taxed, even if such income arises outside India.

- Share premium received from Non-resident investors in a closely held company in excess of its fair market value is proposed to be taxed u/s 56(2)(viib) in the hands of Closely held Company.

- The definition of 'strategic disinvestment' proposed to be modified to include the sale of shares by the Central or State Governments, or by a public sector company in another public sector company resulting in a reduction of its shareholding below 51% and transfer of control to the buyer.

- Carry forward of losses and unabsorbed depreciation shall be allowed on amalgamation of the banking company subsequent to a strategic disinvestment.

- Eligible startups will be able to setoff and carry forward losses incurred during their first 10 years of incorporation against the previous time limit of 7 years.

- Date of incorporation for income tax benefits u/s 80-IAC to start-ups to be extended from 31-03-2023 to 31-3-2024.

- The Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Trust, and Rajiv Gandhi Foundation proposed to be excluded from the list of eligible funds for deductions u/s 80G.

- Utilization of corpus, loans or borrowings by a charitable or religious trust prior to 01-04-2021 will not be considered an application for charitable or religious purposes if amount is subsequently deposited back into corpus or loan is repaid.

- The repayment of a loan or investment into the corpus will only be considered an application for charitable or religious purposes if it occurs within 5 years of the initial utilization.

- The donations made by one trust or institution to another trust or institution shall be deemed to be an application of up to 85% of the donated amount.

- Trusts and institutions that have initiated their activities must apply directly for regular registration, rather than provisional registration.

- The application for registration containing false or incomplete information is considered a designated violation and may result in the revocation of the registration of trusts or institutions.

- Provisions for tax on accreted income as specified in Section 115TD shall be extended to trusts/institutions, if they fail to apply for re-registration.

- In order to claim the accumulation of income, trusts or institutions must file Form 9A and Form 10 at least two months prior to the deadline for filing the Return of Income.

- Enabling filing of cross objections for all orders appealable before ITAT.

- Power of the authorized officer conducting search and seizure proceedings expanded to take assistance of services from approved professionals either during the course of search or post such operations.

- A new appellate authority, the Joint Commissioner (Appeal), has been introduced for specific categories of taxpayers, such as individuals and HUFs, to speed up the resolution process in appeal proceedings.

- Time limit for disposing of pending rectification applications by "Interim Board for Settlement" proposed to be extended.

- A provision has been proposed to empower the assessing officer to require a cost audit for inventory valuation prior to assessment.

- The deadline for completing assessments has been extended from 9 months to 12 months, starting from A.Y. 2022-23.

- Period of furnishing return in response to notice issued u/s 148 of the Act increased to 3 months from the end of the month in which such notice is issued.

- Time-limit for completion of Assessment proceedings pending as on the date of search/ seizure operations to be further increased by 12 months.

- The authorities can adjust the Income tax refunds with any outstanding tax due after written intimation only. In the case of assessment/ reassessment, written reasons must also be provided for withholding the refund. In such cases, the additional interest on refund is not available for such period.

- Primary Agricultural Credit Societies (PACS) and Primary Co-Operative Agricultural and Rural Development Banks (PCARD) can now accept and repay deposits or offer loans to their members in cash up to Rs. 2 lakhs.

- The proposed amendment to Section 92D shortens the deadline for submitting information or documents in tax proceedings related to international or domestic transactions from 30 days to 10 days, with an option to extend by another 30 days.

- The provisions for thin capitalization in Section 94B will not apply to an Indian company and PE of foreign company and designated NBFCs.

- Maximum deposit limit for Senior Citizen Savings Scheme to be enhanced to ₹30 lakhs from ₹15 lakhs.

- Maximum deposit limit for Monthly Income Account Scheme to be enhanced from ₹4.5 lakhs to ₹9 lakhs for single account and from ₹9 lakhs to ₹15 lakhs for joint account.

- Women empowerment has also seen focus with Mahila Samman Bachat Patra - a one-time, two-year small savings scheme of upto INR2 lakh for women.

- Financial Institutions liable for fine of Rs 5,000 for submitting inaccurate SFTs as a result of incorrect information provided by account holders. The financial institution has the right to recover the fine from the account holder.

- Central Govt. will prescribe a uniform method for the valuation of perquisites arising from rent-free or concessional accommodation provided by an employer to an employee.

- Government to bring another dispute resolution scheme Vivad Se Vishwas - 2 to settle commercial disputes.

- Central Processing Centre to be set up for faster response to companies filing forms under Companies Act.

- Setting up a single window IT system for registration and approval from IFSCA, SEZ authorities, GSTN, RBI, SEBI and IRDAI.

- Integrated IT portal to be established to enable investors to easily reclaim the unclaimed shares and unpaid dividends from the Investor Education and Protection Fund Authority.

- One stop solution for reconciliation and updation of identity and address of individuals to be established using Digi Locker service and Aadhaar as foundational identity.

- No tax shall be imposed on transfer of capital assets in connection with the relocation of an offshore fund to International Financial Service Centre (IFSC).

- Period of tax benefits to funds relocating to IFSC, Gujarat International Finance Tec-City (GIFT City) extended till 31.03.2025.

- Offshore Derivative Instruments also known as Participatory notes (P-notes) issued at GIFT City proposed to be recognized as valid contracts.

- Any income distributed from P-notes in the GIFT City proposed to be exempt from taxation in the hands of non-residents.

- Any income distributed to non- residents on the Offshore Derivative Instrument (ODI) entered with IFSC Banking units of IFSC proposed to be exempt from tax u/s 10(4E).

- Interest calculation for updated tax returns will be based on difference between assessed tax and advance tax claimed in the earlier returns.

- PAN will be used as the common identifier for all digital systems of specified government agencies to bring in Ease of Doing Business.

- Filing of returns and statements under GST will not be allowed after 3 years from relevant due dates.

- Input tax credit (ITC) will not be available for goods or services used in activities relating to Corporate Social Responsibility (CSR).

- Following transactions are to be treated as outside the purview of GST also for the period 1 July 2017 till 31 January 2019.

    - Supply of goods from a place in non-taxable territory to another place in non-taxable territory without such goods entering into India

    - Supply of warehoused goods before their clearance for home consumption

    - High sea sales

- Value of activities as may be prescribed in respect of warehoused goods before their clearance for home consumption will be considered as an exempt supply for common ITC reversal.

- Minimum threshold for launching prosecution under GST proposed to be increased from ₹1 crore to ₹2 crores except in case of issuance of invoice without supply.

- Place of supply of services of transportation of goods outside India will be:

  - In case of registered recipient —location of recipient

  - In case of unregistered recipient —location at which goods are handed over for transportation.

- Condition of minimal human intervention will be removed from definition of "Online Information and Database Access or Retrieval Services", placing emphasis only on information technology required to provide such service.

- Composition levy has been amended to enable unregistered suppliers and composition taxpayers to make intra-state supply of Goods through E-Commerce Operators (ECOs).

- E-Commerce operators would be subject to penal provisions in case of contravention of GST provisions by unregistered persons or composition taxpayers for supplies made through them.

- Following offences proposed to be decriminalized from imprisonment: -
  - Obstructing or preventing any officer in discharge of his duties under GST
  - Tempering of material evidence or documents
  - Failure to supply information

- Compounding amount, in case of offences, will be reduced between 25% to 100% of the tax amount from present range of 50% to 150%.

- Basic custom duty rates on goods other than textiles and agriculture reduced from 21% to 13%. As a result, there are minor changes in taxes on some items toys, bicycles, automobiles and naphtha.

- R&D grant for Lab Grown Diamonds (LGD) sector to encourage indigenous production of LGD seeds and to reduce import dependency.

- Basic customs duty reduced on seeds used in the manufacture of lab grown diamonds.

- Excise duty exempted on GST-paid compressed bio gas contained in blended compressed natural gas.

- National Calamity Contingent Duty (NCCD) on specified cigarettes revised upwards by 16%.

- Customs duty on crude glycerin for use in manufacture of epichlorohydrin reduced to 2.5% from 7.5%.

- Extend customs duty cut on imports of parts of mobile phones by 1 year.

- Customs Duty on specified capital goods/machinery for manufacture of lithium-ion cell for use in battery of electrically operated vehicle (EVs) extended for another year to 31.03.2024.

- Customs duty exemption restricted up to 31 March 2025 on import of dredgers and raw materials/ parts used in manufacture of vessels/ ships.

- To promote TV manufacturing, customs duty on open cells of TV panels reduced to 2.5%

- Customs duty on electric kitchen chimney increased to 15% from 7.5%.

- Customs duty on heat coil for manufacture of electric kitchen chimneys reduced to 15% from 20%.

- Customs duty on camera lens and its inputs/parts for use in manufacture of camera module of cellular mobile phone reduced to zero.

- Customs duty exempted on vehicles, specified automobile parts/components, sub-systems and tyres when imported by notified testing agencies, for the purpose of testing and/ or certification, subject to conditions.

- Customs duty reduced on acid grade fluorspar (containing by weight more than 97% of calcium fluoride) to 2.5% from 5%.

- Duty reduced on key inputs for domestic manufacture of shrimp feed.

- Duties on articles made from dore and bars of gold and platinum increased.

- Import duty on silver dore, bars and articles increased to align it with gold, platinum.

- Basic Customs Duty exemption on raw materials for manufacture of CRGO Steel, ferrous scrap and nickel cathode continued.

- Concessional BCD of 2.5% on copper scrap is continued.

- Basic customs duty rate on compounded rubber increased to 25% from 10% or ₹30 per kg whichever is lower.

- Solar power plant & projects excluded from Customs Project Imports Scheme.

- Customs Act, 1962 to be amended to specify a time limit of nine months from date of filing application for passing final order by Settlement Commission.

- Customs Tariff Act to be amended to clarify the intent and scope of provisions relating to Anti-Dumping Duty (ADD), Countervailing Duty (CVD), and Safeguard Measures.

Rates of Income Tax: -

Option I – NORMAL TAX RATES: -

All Resident Assessee and All Non – Resident Assessee (Less than 60 years): -

Income	Existing Slab of Income Tax Rate (AY 2023-24)	Proposed Slab of Income Tax Rate (AY 2024-25)
Up to 2,50,000	NIL	NIL
2,50,001 - 5,00,000	5%	5%
5,00,001 - 10,00,000	20%	20%
Above 10,00,000	30%	30%

Resident Senior Citizen (60 years or more but less than 80 years): -

Income	Existing Slab of Income Tax Rate (AY 2023-24)	Proposed Slab of Income Tax Rate (AY 2024-25)
Up to 3,00,000	NIL	NIL
3,00,001 - 5,00,000	5%	5%
5,00,001 - 10,00,000	20%	20%
Above 10,00,000	30%	30%

Resident Very Senior Citizen (80 years or more): -

Income	Existing Slab of Income Tax Rate (AY 2023-24)	Proposed Slab of Income Tax Rate (AY 2024-25)
Up to 5,00,000	NIL	NIL
5,00,001 - 10,00,000	20%	20%
Above 10,00,000	30%	30%

Note: -

- **The filing of Return of Income is not mandatory for resident individual who is of the age of 75 years or more and earns no other income except pension or interest income from any account maintained with the specified bank (Details of the same are described in Section 194P).**

Option II – CONCESSIONAL TAX RATES FOR INDIVIDUAL AND HUF# [Default Tax Option] : -

Income	Normal Tax Option (AY 2023-24)	Concessional Tax Option* (AY 2023-24)	Concessional Tax Option* (AY 2024-25)
Up to 2,50,000	NIL	NIL	NIL
2,50,001 - 3,00,000	5%	5%	NIL
3,00,001 - 5,00,000	5%	5%	5%
5,00,001 - 6,00,000	20%	10%	5%
6,00,001 - 7,50,000	20%	10%	10%
7,50,001 - 9,00,000	20%	15%	10%
9,00,001 - 10,00,000	20%	15%	15%
10,00,001 - 12,00,000	30%	20%	15%
12,00,001 - 12,50,000	30%	20%	20%
12,50,001 - 15,00,000	30%	25%	20%
Above 15,00,000	30%	30%	30%

AMT shall not apply to Individual/HUF, having business Income Opting for concessional option.

***Concessional tax rates are subject to certain terms and conditions, which are briefly described in Section 115 BAC of the Act.**

It is Proposed that scheme of concessional rate of tax will become default tax option w.e.f. AY 2024-25 onwards. However, assesses can continue with the option of normal rate of tax.

Surcharge: -

The table below shows the **Surcharge rate** proposed for Individual/ Hindu Undivided Family applicable for Assessment Year 2024-25: -

Option I – NORMAL TAX RATES: -

Income Limit	Existing Surcharge of Income (AY 2023-24)		Proposed Surcharge of Income (AY 2024-25)	
	other than Capital Gain covered u/s 111A & 112A	With Capital Gain covered u/s 111A & 112A	other than Capital Gain covered u/s 111A & 112A	With Capital Gain covered u/s 111A & 112A
Up to 50,00,000	NIL	NIL	NIL	NIL
50,00,001 - 1,00,00,000	10%	10%	10%	10%
1,00,00,001 - 2,00,00,000	15%	15%	15%	15%
2,00,00,001 - 5,00,00,000	25%	15%*	25%	15%*
5,00,00,001 and above	37%	15%*	37%	15%*

*In case the total income exceeds Rs. 2 Crores on account of Income from capital gain covered u/s 111A and 112A of the Act, then surcharge @ 15% would be applicable on the total income irrespective of quantum of income other than capital gain.

Option II – CONCESSIONAL TAX RATES FOR INDIVIDUAL AND HUF [If option u/s 115BAC is exercised] : -

Income Limit	Existing Surcharge of Income (AY 2023-24)		Proposed Surcharge of Income under 115BAC (AY 2024-25)	
	other than Capital Gain covered u/s 111A & 112A	With Capital Gain covered u/s 111A & 112A	other than Capital Gain covered u/s 111A & 112A	With Capital Gain covered u/s 111A & 112A
Up to 50,00,000	NIL	NIL	NIL	NIL
50,00,001 - 1,00,00,000	10%	10%	10%	10%
1,00,00,001 - 2,00,00,000	15%	15%	15%	15%
2,00,00,001 - 5,00,00,000	25%	15%*	25%	15%*
5,00,00,001 and above	**37%**	**15%***	**25%**	**15%***

*In case the total income exceeds Rs. 2 Crores on account of Income from capital gain covered u/s 111A and 112A of the Act, then surcharge @ 15% would be applicable on the total income irrespective of quantum of income other than capital gain.

Highest surcharge rate on income above Rs. 5 Crores to be reduced from 37% to 25% under the scheme of concessional rate of tax. This will result in reduction of maximum personal income tax rate to 39%.

Health & Education Cess for all types of assesses: -

Types of Cess	For AY 2023-24	For AY 2024-25
Health & Education Cess	4%	4%

Rebate of income-tax in case of certain individuals: - [Amendment in Section 87A of the Act]

Section 87A of the Act provides deduction to residential individuals in India on total income chargeable to tax in relevant Assessment Year.

In order to promote scheme of concessional rate of taxation, the Government has proposed changes in the limit of Total Income eligible for rebate u/s 87A of the Act.

Particulars	Existing Provision (upto A.Y 2023-24)		Proposed Amendment (A.Y 2024-25 onwards)	
	Normal Tax Option	Concessional Tax option U/s 115BAC (1A)	Normal Tax Option	Concessional Tax option U/s 115BAC (1A)
Total Income	Upto Rs. 5,00,000	Upto Rs. 5,00,000	Upto Rs. 5,00,000	Upto Rs. 7,00,000
Rebate u/s 87A	Upto Rs. 12,500	Upto Rs. 12,500	Upto Rs. 12,500	Upto Rs. 25,000

Above proposed amendment shall come into force A.Y 2024-25 onwards.

For Domestic Company: -

I.The table below shows the comparison of Income Tax rates for Domestic Company **(Option I): -**

Turnover Limit	Existing Slab of Income Tax Rate (%) (AY 2023-24)				Proposed Slab of Income Tax Rate (%) (AY 2024-25)			
	Tax	Sur.	H & E Cess	Eff. Rate	Tax	Sur.	H & E Cess	Eff. Rate
A.	**INCOME UP TO Rs. 1 CR.**							
Up to 400 cr.*	25.00	NIL	4.00	26.00	25.00	NIL	4.00	26.00
Above 400 cr.*	30.00	NIL	4.00	31.20	30.00	NIL	4.00	31.20
B.	**INCOME ABOVE Rs. 1 CR. BUT LESS THAN Rs. 10 CR.**							
Up to 400 cr.*	25.00	7.00	4.00	27.82	25.00	7.00	4.00	27.82
Above 400 cr.*	30.00	7.00	4.00	33.38	30.00	7.00	4.00	33.38
C.	**INCOME ABOVE Rs. 10 CR.**							
Up to 400 cr.*	25.00	12.00	4.00	29.12	25.00	12.00	4.00	29.12
Above 400 cr.*	30.00	12.00	4.00	34.94	30.00	12.00	4.00	34.94

*Turnover to be checked that of Financial Year 2020-21 for Assessment Year 2023-24 and of Financial Year 2021-22 for Assessment Year 2024-25.

How to Calculate Turnover?

Calculation of Turnover is not defined in the Statute and hence in our opinion, for the purpose of calculation of turnover of 400 crores in Financial Year 2021-22, it will be calculated in the same manner as specified in Guidance note on Tax Audit under Section 44AB of the Income Tax Act, 1961.

The table below shows comparison of **MAT** Income Tax Rates (Other than those covered in Option I): -

aType of Assessee	Existing Slab of Income Tax Rate (%) (AY 2023-24)				Proposed Slab of Income Tax Rate (%) (AY 2024-25)			
	Tax	**Sur.**	**H & E Cess**	**Eff. Rate**	**Tax**	**Sur.**	**H & E Cess**	**Eff. Rate**
A.	**INCOME UP TO Rs. 1 CR.**							
MAT for Company#	15.00	NIL	4.00	15.60	15.00	NIL	4.00	15.60
MAT for Company$	9.00	NIL	4.00	9.36	9.00	NIL	4.00	9.36
B.	**INCOME ABOVE Rs. 1 CR. BUT LESS THAN Rs. 10 CR.**							
MAT for Company#	15.00	7.00	4.00	16.69	15.00	7.00	4.00	16.69
MAT for Company$	9.00	7.00	4.00	10.02	9.00	7.00	4.00	10.02
C.	**INCOME ABOVE Rs. 10 CR.**							
MAT for Company#	15.00	12.00	4.00	17.47	15.00	12.00	4.00	17.47
MAT for Company$	9.00	12.00	4.00	10.48	9.00	12.00	4.00	10.48

Domestic Company other than Company being a Unit located in IFSC deriving its income wholly in convertible forex;

$ Domestic Company being a Unit located in IFSC deriving its income wholly in convertible forex.

Option – II: - CONCESSIONAL TAX RATES: -

Concessional rate for Domestic Companies as per section 115BAA & 115BAB on fulfillment of certain condition specified in the said section.

Particulars	**Basic Tax Rate**		**Surcharge**	**H & E Cess**
	All Companies (on fulfilment of Turnover Limit mentioned on Pg no. 20)	**New Companies***		
Concessional Tax Rate	22%	15%	10%	4%
MAT	Not Applicable			

*New Manufacturing companies and companies engaged in business of generating electricity.

There is no change in above Tax Rates applicable to Corporate Entities.

For Co-operative Society: -

Option – I: - Normal Tax Rates: -

Total Income	Tax Rates
Up to Rs. 10,000/-	10%
Between Rs. 10,000/- to 20,000/-	20%
Excess of Rs. 20,000/-	30%

There is no change in the existing income tax rates as specified above.

Option II: - CONCESSIONAL TAX RATES: -

Co-Operative Societies (Section 115BAD & Section 115BAE) is given below: -

Particulars	Existing Provision upto A.Y 2023-24	Proposed Amendment w.e.f. A.Y 2024-25
Entity carrying out **Non-Manufacturing Activities**	22%	22%
Entity carrying out **Manufacturing Activities**	**22%**	**15%**

* Surcharge @ 10% and cess @ 4% to be applied over above Basic Tax Rate.

Above proposed amendment shall come into force from A.Y.2024-25 onwards.

For Other Assessee (other than Domestic Company, Individuals, HUF, Co-op society etc.)

The table below shows the Income Tax rates for Assessment Year 2024-25 for Other Assessee (other than Domestic Company, Individuals, HUF, Co-op society etc.): -

Type of Assessee	Existing Slab of Income Tax Rate (%) (AY 2023-24)				Proposed Slab of Income Tax Rate (%) (AY 2024-25)			
	Tax	Sur.	H & E Cess	Eff. Rate	Tax	Sur.	H & E Cess	Eff. Rate
A.	**INCOME UP TO Rs. 1 CR.**							
a) Firm/LLP								
-Regular Tax	30.00	NIL	4.00	31.20	30.00	NIL	4.00	31.20
-AMT	18.50	NIL	4.00	19.24	18.50	NIL	4.00	19.24
b) Foreign Co.								
-Regular Tax	40.00	NIL	4.00	41.60	40.00	NIL	4.00	41.60
B.	**INCOME ABOVE Rs. 1 CR. BUT LESS THAN Rs. 10 CR.**							
a) Firm/LLP								
-Regular Tax	30.00	12	4.00	34.94	30.00	12.00	4.00	34.94
-AMT	18.50	12	4.00	21.55	18.50	12.00	4.00	21.55
b) Foreign Co.								
-Regular Tax	40.00	2	4.00	42.43	40.00	2.00	4.00	42.43
C.	**INCOME ABOVE Rs. 10 CR.**							
a) Firm/LLP								
-Regular Tax	30.00	12	4.00	34.94	30.00	12.00	4.00	34.94
-AMT	18.50	12	4.00	21.55	18.50	12.00	4.00	21.55
b) Foreign Co.								
-Regular Tax	40.00	5.00	4.00	43.68	40.00	5.00	4.00	43.68

Modification of the definition of "Deputy Commissioner (Appeals)": - [Amendment to section 2(19B) of the Act]

It is proposed to amend section 2(19B) to clarify that person appointed as Additional Commissioners of Income Tax (Appeal) ***shall be excluded from the definition of Deputy Commissioner (Appeals).***

Above proposed amendment shall come into force from 1st April 2023.

Extending deeming provision u/s 9 of the Act in case of gift to not-ordinarily resident: - [Amendment to Section 9(1) (viii) of the Act]

As present, section 9(1)(viii) of the Act provides that any sum of money or property situated in India, (exceeding Rs. 50,000/-) is **received on or after 5th day of July 2019** by a ***Non-Resident (NR)*** from a person resident in India, ***without consideration or inadequate consideration***, shall be Income, deemed to accrue or arise in India in the hands of Recipient NR and hence shall be taxed u/s 56(2)(x) of the Act in India.

In certain instances, it is observed that gift (in excess of Rs. 50,000/-) received by certain persons being ***Resident but not ordinarily residents in India (RNOR)*** from person resident in India is claimed as Non-Taxable Income in the hands of recipient.

It is now proposed to provide that the above sum received by **person being RNOR** from person resident in India shall also be deemed as Income accruing or arising in India and shall be taxable under the head "Income from Other Sources" in the hands of person being RNOR.

Taxability of above sum received by person being RNOR from person resident in India is tabulated as under: -

Received from a person resident in India by	Existing Provision	Proposed Amendment
Person being NR	**Taxable**	**Taxable**
Person being RNOR	**Not Taxable**	**Taxable**

Above proposed amendment shall come into force from AY 2024-25 onwards.

Modification of the definition of "Specified Fund", "Investment Fund" and "Resultant Fund": - [Amendment to Section 10(4D), 115UB and 47(viiad) of the Act]

At present, ***specified funds shall be eligible to claim exemption under section 10(4D) of the Act with respect to certain income*** accrued or arisen or received by it which is attributable to units held by a non-resident (not being a PE in India) or to the investment division of offshore banking unit.

It is proposed to amend the definition of Specified Fund and include Fund which is ***regulated under the International Financial Service Centres Authority (IFSCA)-(Fund Management Regulation, 2022***).

Consequential Amendment is proposed in Section 115UB and 47(viiad) of the Act, which is the definition of "Investment Fund" and "Resultant Fund" respectively and accordingly includes Fund which is *regulated under the IFSCA- (Fund Management Regulation,2022*).

Above proposed amendment shall come into force from AY 2023-24 onwards.

Taxation of proceeds of Life Insurance Policy: - [Amendment to Section 10(10D) and consequential Insertion of Section 2(24)(xviid) and 56(2) (xiii) of the Act]

At present, ***any sum received from Life insurance policy*** in respect of which ***premium payable exceeds 10%*** of the actual capital sum assured, then the ***maturity proceeds under said policy is not exempt*** u/s 10(10D) of the Act.

It is proposed to ***include one more category of non- exempt insurance policy*** in the above existing category of insurance policy: -

Policy	Date of Policy issued on or after	Amount of Premium Paid per annum
Single Life Insurance Policy (other than ULIP)	01/04/2023	Above Rs. 5,00,000/-
One or more Life Insurance Policy (other than ULIP)	01/04/2023	Aggregate Above Rs. 5,00,000/-

Further, it is proposed that any sum received (including by way of bonus) at any time during the previous year, under Life Insurance Policy, which is not exempt under clause (10D) of section 10 of the Act as explained above, ***shall be chargeable to income-tax u/s 56(2)(xiii) of the Act as "Income from other sources (IFOS)"***.

If the premium paid has been claimed as deduction in any other provision of the Act, then such amount of premium will not be allowed to be reduced from the sum received, which is taxable under the head of IFOS. Computation mechanism shall be prescribed. This would not apply to ULIP or Keyman insurance policies.

However, any sum received by the beneficiary ***on death of a person*** is fully exempt, even if premium paid in a year exceeds Rs.5,00,000/- for Life Insurance policies (other than ULIP).

Consequential Insertion is proposed in Section 2(24)(xviid) of the Act, which is the definition of "Income" and accordingly the same will be charged to tax as IFOS u/s 56(2)(xiii) of the Act.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Removal of exemption of news agency: - [Amendment in Section 10(22B) of the Act]

At present, ***any income of a notified news agency*** which is set up in India solely for collection and distribution of news ***is exempt to tax*** subject to conditions that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income to its members.

It is proposed to withdraw said exemption available to notified news agencies, same is tabulated as under:-

Nature of Income	Existing Provision	Proposed Amendment
Income of a notified news agency subject to certain conditions	**Exempt**	**Fully Taxable**

Above proposed amendment shall come into force from A.Y. 2024-25 onwards.

Exemption to specified income of class of Body/Authority/Board/Trust or Commission: - [Amendment to section 10(46) of the Act and & consequential Insertion in Section 10(46A) of the Act]

At present, as per section 10(46) of the Act, **specified income arising to a specified** Body/Authority/ Board/Trust/Commission which is set up or constituted by the Central or State Govt. is exempt from tax***,*** whose object is carrying any activity for the benefit of general public.

However, above exemption is available subject to following conditions: -

a) It should not be engaged in any **commercial activity** and

b) It is notified by Central Government in this behalf.

The nature and extent of such specified income to be exempted shall be notified by the Central Government at the time of notifying such entity.

The restriction on ***undertaking commercial activities*** by any notified Body/Authority/ Board/Trust/Commission has been litigated issue.

Recently, Hon'ble Supreme Court of India in the case of ***Assistant Commissioner of Income-tax (Exemptions) vs Ahmedabad Urban Development Authority in Civil Appeal No 21762 of 2017 vide its order dated 19.10.2022*** *held that in sub-clause (b) of clause (46) of section 10 of the Act, "commercial" has the same meaning as "trade, commerce, business" in clause (15) of section 2 of the Act. Therefore, sums charged by such notified body, authority, Board, Trust or Commission (by whatever name called) will require similar consideration – i****.e., whether it is at cost with a nominal mark-up or significantly higher, to determine if it falls within the mischief of "commercial activity.***

In above case, Supreme Court has held that the amount or any money whatsoever charged for the ***public services are prima facie to be excluded from the mischief of business or commercial receipts as their objects are essential for advancement of public purposes/ functions.***

It is now proposed to exempt income of a notified Body/Authority/Board/Trust/Commission, ***not being a Company*** as defined in sec.10(46A) of the Act from scope of section 10(46) of the Act and insert new section 10(46A) of the Act.

Insertion in section 10(46A) of the Act

It is proposed to insert new section 10(46A) of the Act, to exempt any income arising to a notified Body/Authority/Board/Trust/Commission, ***not being a company***, which has been established or constituted by or under a Central or State Act with one or more of the following purposes: -

i. dealing and satisfying the need for housing accommodation;

ii. planning, development or improvement of cities, towns and villages;

iii. regulating, or developing, any activity for the benefit of the general public; or

iv. regulating any matter, for the benefit of the general public, arising out of the object for which it has been created.

Above proposed amendment shall come into force from A.Y.2024-25 onwards.

Provision relating to newly established units in Special Economic Zones: - [Insertion in Section 10AA of the Income Tax Act and consequential amendment in section 155 of the Act]

The existing provisions of the section 10AA of the Act, provides 15-year tax benefit to a unit established in a SEZ which began to manufacture or produce articles or things or provide any services on or after 01.04.2005. The deduction is available for units that begin operations before 01.04.2020, which had been extended to 30.09.2020.

It is proposed that above deduction to SEZ-Assessee is subject following additional conditions apart from existing conditions -

i. Assessee should file a Return of Income on or before due date specified u/s 139(1) of the Act and

ii. Proceeds from sale of goods or services is actually received or brought into India by assessee in convertible foreign exchange **within a period of six months** from the end of previous year, or within such period as ***competent authority*** (Reserve Bank of India or authority authorized under any law for dealings in foreign exchange) may allow.

Also, it is proposed that **export proceeds from sale of goods or services shall be deemed to have been received** in India ***if such proceeds are credited to a separate account maintained by the assessee with any bank outside India with the approval of RBI***;

Consequential Amendment is proposed in Section 155(11A) of the Act:

At present**,** where deduction u/s 10A or 10B or 10BA of the Act is not allowed on the ground that such income is not received in convertible foreign exchange or not brought in to India within such stipulated period as authorized by specified authority, but subsequently such income is received in India, then AO can amend the assessment order within 4 years from the end of financial year in which such income is so received in or brought into India and allow deduction under sec.10A or 10B or 10BA of the Act.

At present, no amendment is permissible in case exemption is claimed u/s 10AA of the Act. No such amendment as narrated above is possible in case deduction is claimed u/s 10AA of the Act. It is accordingly proposed to make consequential amendment in sub-section (11A) of section 155 of the Act, to insert section 10AA to allow the Assessing Officer to amend the assessment order later where the export earning is realized in India after the permitted period.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Rationalization of Provisions between Rent – Accommodation at Free of rate & at Concessional Rate [Amendment in Section 17(2) of the Act]

At present, there are different rules for Valuation of Perquisite for providing **Rent-free accommodation** or **accommodation provided at concessional rate** provided to Employees by the Employer, which were based on different criteria.

Some of the Criteria are mentioned as below;

- Government Employers (Central/ State Government) or any other Employer,
- Accommodation is unfurnished or it is furnished,
- Accommodation owned/ hired/ leased by Employer,
- Population of different Cities to determine certain percentage of salary as value of perquisite,
- Accommodation provided by Employer in Hotel,
- Certain Percentage of the Cost of furniture or if it is hired from third party then Actual Hire charges payable as reduced by any charges paid by the employee, etc.

It is now proposed to scrap the existing system of valuation of Perquisite with regard to **rent-free accommodation** or **accommodation provided at concessional rate** provided to Employees by the Employer. The proposed Amendment is tabulated as below: -

Sr No	Description	Method for computing Perquisite given in	
		Existing	**Proposed**
1	Value of Rent free Accommodation	Rule 3 of the Income Tax Rules, 1962.	Yet to be notified in Rules
2	Value of any Concession in the matters of rent provided to Employees by the Employer	Explanation 1 to 4 of Section 17(2)	Yet to be notified in Rules

Above proposed Amendment shall come into force from A.Y. 2024 - 25 onwards.

Agnipath Scheme, 2022

The Ministry of Defence has introduced the Agnipath Scheme, 2022 for enrolment of Individuals as **Agniveers** in Indian Armed Forces. To protect interest of the the Agniveers the Government has decided to create a non-lapsable dedicated **Agniveer Corpus Fund** (herein after refer as **"Fund"**) in the interest-bearing Public Account. The package given to an Agniveer from the Fund is called as **'Seva Nidhi**'.

In this Fund, Agniveer needs to mandatorily contribute 30% of his Monthly package and the Government will contribute same amount. This amount along with interest would be held in their respective Agniveer accounts. The scheme will be administered and the Fund will be maintained under the control of Ministry of Defence (MoD).

On completion of the engagement period of four years/ Death/ Disability, Agniveers will be paid one time '**Seva Nidhi**' package, which shall comprise of their contribution including interest thereon.

In order to allow deduction from the computation of total Income of Agniveer, it is proposed to make the following Amendment by way of: -

- Insertion of new sub-clause in clause (1) of Section 17 of the Act.
- Insertion of new Section 80CCH of the Act.
- Insertion of new clause (12C) of Section 10 of the Act.

Detailed explanations of all the Insertions are tabulated as below: -

Sr No	Section	Description	Nature
1	17(1)(ix)	Government contribution towards Fund	**Taxable** under the head Income from Salary of respective Agniveers
2	80CCH	**Regular Tax Option -** Contribution made by Agniveer to the fund and equal contribution by the Government in the Fund **Concessional Tax Option*** Contribution made by the Government in the Fund	Both are eligible for **Deduction** under Chapter VI-A without any limit
3	10(12C)	Amount Received by Agniveer or their nominee as 'Seva Nidhi' package for all contribution made by them and interest thereon.	**Exempt** from Income Tax

For detailed Explanation regarding deduction under Section 80CCH available to Assessee opting for Concessional Tax option that is Section 115 BAC, kindly refer page 86 of this Budget Book.

Above proposed Amendment shall come into force from A.Y. 2023 - 24 onwards.

Providing clarity on benefits and perquisites in cash [Substitution in Section 28(iv) and Consequential Insertion via Explanation 2 in Section 194R]

In **Finance Act 2022**, a new Provision was inserted in **Section 194R** wherein Tax needs to be deducted @ **10%** on the value of benefit or perquisite exceeding **Rs 20,000** in a year, provided (by a person responsible) to a resident, arising from Business or exercise of a Profession.

As the TDS is to be deducted under the name and PAN of the Recipient, as per the provision, the said Income as to be taxed in the hands of Recipient to the extent of amount reflecting in his 26AS out of TDS deducted by the person who has given benefit or perquisite.

However, there is neither any Amendment in Section 28 nor any Amendment in Section 56 about the Taxability of the said sum in the hands of Recipient, and accordingly there is a doubt as to whether the said Income may not be taxed in the hands of Recipient in the absence of charging provision to that effect.

Also there is a Supreme Court judgment in the case of **"CIT vs Mahindra & Mahindra Ltd 2018 (5) TMI 358 – SUPREME COURT"**, where in it is held that waiver of loan in favour of Assessee is not benefit or perquisite as it is not convertible into money but it is money itself and hence out of preview Section 28(iv) of the Act.

Accordingly, it is now proposed to amend existing provision of Section 28(iv) so as to include benefit or perquisite which are in **cash or in kind or partly in cash and partly in kind** together with benefit or perquisite which are convertible into money or not, so that none of the benefit or perquisite given are out of the preview of Section 28(iv) of the Act.

Proposed Amendment is explained below : -

Section	Existing Provision	Proposed Amendment
28 (iv)	The value of any benefit or perquisite, arising from business or the exercise of a profession whether, ➢ **convertible into money or not**	The value of any benefit or perquisite arising from business or the exercise of a profession whether, ➢ **convertible into money or not;** **OR** ➢ **"in cash or in kind or partly in cash and partly in kind".**

Above proposed Amendment shall come into force from A.Y. 2024 - 25 onwards.

Based on the above, consequential Amendment is also proposed to be made in **Section 194R** of the Act.

At present, there is no clarity in the Act for applicability of TDS provision for the transactions of such benefit or perquisite which are given in Cash/ Kind/ Partly in cash and partly in kind.

To remove this ambiguity, it is proposed to Insert **Explanation 2** in Section 194R which clarifies as below : -

That any benefit or perquisite whether in cash/ kind/ partly in cash and partly in kind shall be liable to TDS under Section 194R of the Act subject to fulfilment of other conditions given in Section 194R of the Act.

Above Proposed Amendment shall come into force from A.Y. 2023 - 24 onwards.

Ease in process of claiming deduction of preliminary expenditure [Substitution in Proviso of Section 35D(2)(a)]

Section 35D of the Act provides for amortization of certain preliminary expenses which are incurred

- prior to the commencement of business **OR**
- after commencement, in connection with extension of undertaking **OR**
- setting up of a new unit

Before discussing the new Amendment, it is necessary to know which are the expenditures described in Section 35D(2)(a), the said expenditures are presented as under: -

preparation of feasibility report	preparation of project report	Conducting market survey/any other survey necessary for the Business of Assessee	Engineering services relating to the Business of the Assessee

There are other expenses also allowable under clause (b) to (d) of sub Section 2 of Section 35D of the Act.

With this background we will now discuss Proposed Amendments with regard to claiming deduction under Section 35D of the Act and the same is tabulated below: -

Sr No	**Conditions**	**Existing Provision**	**Proposed Amendment**
1	Who has to carry out work related to above expenditures	➢ Assessee himself or ➢ A concern which is approved by the Board (CBDT).	Assessee himself
2	Procedure of filing Statement of Expenditure incurred	Not Required	Assessee shall be required to furnish a Statement ➢ Containing particulars of this expenditure, ➢ To Income Tax Authority, ➢ Within prescribed time and form.

Above proposed Amendment shall come into force from A.Y. 2024 - 25 onwards.

Rationalization of Provisions of Charitable Trust and Institutions [Amendment in Section 11 of the Act similar provision in Section 10(23C)(iv)(v),(vi),(via) and consequential Amendment in section 115TD of the Act]

Under Section 11 of the Income-tax Act, 1961 certain Incomes derived from property held under trust for wholly for Charitable or Religious purposes specified thereunder shall not be included in the Total Income of the previous year subject to the **conditions** prescribed by the Act as below:-

i. General donations are received by a Charitable trust without any direction that they should form part of Corpus. General donations are revenue in nature and the trust is required to spend 85% of the same for Charitable & Religious Purpose;

ii. Voluntary contributions received as corpus donation **must be invested or deposited** entirely in one or more of the forms or modes specified in Section 11(5);

iii. Expenditure on Charitable & Religious purpose out of corpus **shall not be considered** as application for charitable or religious purposes in previous year in such application is made. However, it is allowed as application in the previous year in which shortfall in **investment from corpus donation is made good or deposited** back in one or more of the forms or modes specified in Section 11(5) and

iv. Expenditure on Charitable & Religious purpose from loans and borrowings **shall not be considered** as application for charitable or religious purposes However, it is **allowed as application** in the previous year in which **loan is repaid back.**

At present, there are **other conditions** provided for application made from general donation for claiming Exemption in Section 11 and 10(23C). However, there are **no additional conditions** provided for application of 85% limit used from Corpus donation and Loans/borrowings.

To remove this loopholes legislature has proposed to make amendment in Section 11 and 10 (23C) to make it mandatory for trust to comply with **following condition** at the time of incurring expenditure on charitable or religious purpose from corpus donation and/or loans/ borrowings: -

Sr No	Conditions	Application from corpus or loans/borrowings	
		Existing	Proposed
1	Donation by one Trust/ Institution to another Trust/ Institution should not be in the form of corpus donation;	Not Applicable	Applicable, hence to be fulfilled by Trust
2	TDS is to be deducted, whenever it is applicable in application;		
3	Payment in excess of Rs.10,000 is not allowed if payment mode otherwise then by a banking Channel;		
4	Application is allowed in the year in which it is actually paid;		
5	No deductions for re-depositing into corpus / repayment of loans where application from such sources were made prior to 1 April 2021 and		
6	Deduction shall be available provided funds are re-deposited back to the corpus and loans are repaid within 5 years from the initial year.		

Above proposed amendment shall come into force from A.Y. 2023 - 24 onwards.

Reduction in Percentage of Deduction on donation given to other trusts

At present, **full deduction is allowed** on General donation given to other eligible trusts or Institution by Assessee trust from it general donation. However, Government has noticed that certain trusts or institutions are trying to **defeat the intention** of the Law by **forming multiple trusts and accumulating 15% at each stage.** So that effective application towards the charitable or religious activities is reduced to lesser percentage compared to mandatory 85 %.

To eliminate this practice legislature has proposed an amendment in Section 11(1) and in Section 10(23C) of the Act, that any amount credited or paid as donation to any eligible trusts, shall be treated as application for charitable or religious purposes only to the **extent of eighty-five percent** of such amount credited or paid.

The effect of the above proposed amendment is explained by way of below example:

1. Trust "A" has received Original general donation of Rs 100 /- and gives donation of Rs 100 /- to Trust "B",

2. Further Trust "B" gives general donation of the required amount as per law to Trust "C" and

3. Trust "C" incurs actual expenditure for Charitable and Religious purpose of the required amount as per law.

Deduction claimed in computation of Income and Taxable Income as per **Existing provision** upto A.Y. 2023 – 24: -

Particulars	Donation Received	Donation to Other Trust	Actual Exp Incurred to Outside Trust	Deduction available in computation	Balance Taxable only if B+C is less than 85% of A	Balance surplus
Trust A gives donation to Trust B	100.00	100.00	0	100.00	0	0
Trust B gives donation to Trust C	100.00	85.00	0	85.00	0	15.00
Trust C incurs actual Expenditure	85.00	0	72.25	72.25	0	12.75
Total			**72.25**		**0**	**27.75**

In the above example, if Trust "B" directly incurred expenditure of 85% from donation received of Rs. 100 /-, then there is a surplus of Rs.15 /- but forming multiple trusts and accumulating 15% at each stage the effective expenditure on Charitable & Religious Purpose is Rs. 72.25 and balance surplus is increased to Rs. 27.75, instead of Rs. 15 /- and Taxable Income is Rs. 0.

Deduction claimed in computation of Income and Taxable Income as per **Proposed Amendment** applicable from A.Y. 2024 – 25 onwards: -

Particulars	Donation Received	Donation to Other Trust	Actual Exp Incurred to Outside Trust	Deduction available in computation	Balance Taxable only if B+C is less than 85% of A	Balance surplus
Trust A gives donation to Trust B	100.00	100.00	0	85.00	0	0
Trust B gives donation to Trust C	100.00	100.00	0	85.00	0	0
Trust C incurs actual Expenditure	100.00	0	85.00	85.00	0	15.00
Total			**85.00**		**0**	**15.00**

As per proposed amendment in the above example, it is clearly seen that actual expenditure on Charitable & Religious Purpose which was earlier Rs.72.25/- has increased to Rs. 85/-, which is original intention of the legislature to incurred expenditure of 85% of the original general donation received.

Above proposed amendment shall come into force from A.Y. 2024 - 25 onwards.

Alignment of the time limit for furnishing the forms and Tax Audit report

At present, the trusts and institutions are required to get their accounts audited as per the provisions of Section 10 and Section 12A of the Act. The audit report is required to be furnished at least one month before the due date for furnishing the Return of Income (i.e. 30th September of Assessment year)

Also, sub-Section (1) of Section 11 of the Act provides that where the trust or institution has option to **deem certain income to be applied**, such trust or institution is required to make an application in the prescribed form (Form 9A) for exercise of option of accumulation or set apart for application for Charitable or Religious purpose in subsequent year to the extent of shortfall in application for such purpose in current year.

Further, Section 11 and Section 10 (23C) of the Act provides that where the trust or institution **accumulates or sets apart its income**, such trust or institution is also required to furnish a statement in the prescribed form (Form 10).

The due date for furnishing form 9A and form 10 is on or before the due date specified under sub-Section (1) of Section 139 of the Act is same as the due date of furnishing the Return of Income (i.e. 31st October of Assessment year).

The auditors are required to report the details of form 10/9A in the audit report. Since the due date for furnishing audit report is one month before the due date of furnishing the ITR, auditors find it difficult to mentioned details of form 10/9A in his report.

In order to rationalise the provisions, it is proposed to provide for filing of Form No. 10A/9A at **least two months prior** to the due date specified under sub-Section (1) of Section 139 for furnishing the Return of Income for the previous year (i.e. 31st August of Assessment year).

Forms/Report/Return	Existing Timeline	Proposed Timeline
Filing Form 9A/10	31st October of A.Y.	31st August of A.Y.
Filing of Tax Audit report	30th September of A.Y.	30th September A.Y.
Filing the Return of Income	31st October of A.Y.	31st October of A.Y.

Above proposed amendment shall come into force from A.Y. 2023 - 24 onwards.

Denial of exemption as per Section 11,12 and 10 (23C) of the Act

Section 139 of the Act was amended by the Finance Act, 2022 providing for an option to the taxpayers to furnish updated Return of Income up to 2 years from the end of assessment year.

This result in unintended consequences of allowing exemption under Section 11, 12 of the Act and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of Section 10 of the Act will be available to the trusts where they furnish updated Return of Income.

Now it is Proposed that **exemption benefits** under Section 11, 12 and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of Section 10 of the Act is **not available** in case of filing updated returns where **original return is not filed within the due dates** mentioned under sub-Section (1) or sub Section (4) of Section 139 of the Act.

Above proposed amendment shall come into force from A.Y. 2023 - 24 onwards.

Consequential Amendment Tax on accreted income of certain Trusts and Institutions: - [Amendment to Section 115TD of the Act]

Several Trusts had siphoned off money after availing of all benefits under tax laws. They never filed tax returns and no payment of exit tax was made. The purpose of exit tax is to prevent companies from avoiding tax when relocating assets.

Present provisions and proposed amendments with respect to Taxation on accreted income of trusts and institutions are tabulated below: -

Particulars	Existing Provision	Proposed amendment
Tax on accreted Income	Additional tax is payable on the accreted income, which arises on the **conversion of trust into the non-charitable form** or **on transfer of assets** of a charitable trust on its dissolution to a non-charitable institution	**Failure to make an application** in accordance with Section 10(23C) or Section 12A of the Act within the prescribed time limit, it shall be **deemed to have been converted into any form not eligible for registration** or approval in the previous year in which such period expires and tax on accreted income shall apply

Bill also proposes to provide that principal officer or the trustee of the specified person and such specified person shall also be liable to pay the tax on accreted income **within 14 days** from the end of the previous year in which conversion of Charitable Trust into Non-Charitable Trust takes place.

Further, it is also proposed that in case of deemed registration for failure to apply for registration in accordance with section 10(23C) or section 12A the last date for making such application for registration shall be deemed to be date of conversion as explained above.

Accreted Income is defined to be aggregate of Fair Market value as on the date of conversion of the assets reduced by total liabilities on the same date.
Tax payable on Accreted Income is Maximum Marginal Rate.

Above proposed amendment shall come into force from AY 2023-24 onwards.

Promoting timely payments to Micro and Small Enterprises: - [Amendment in Section 43B of the Act]

At present, Section 43B of the Act provides for certain deductions to be allowed only on actual payment basis whereas, **the PROVISO** of this Section allows deduction on accrual basis, if the amount is paid by due date of furnishing of the Return of Income.

With the objective of promoting timely payments to Micro and Small Enterprises, it is hereby proposed to **insert clause (h) in Section 43B of the Act,** wherein, any sum payable by the assessee to a Micro or Small Enterprise beyond the time limit specified u/s 15 of the Micro, Small and Medium Enterprise Development (MSMED) Act 2006, shall be **allowed as deduction only on actual Payment.**

It is pertinent to note that, the **PROVISO of Section 43B of the Act**, allowing deduction on accrual basis, if the amount is paid on or before the due date of furnishing of the Return of Income is **NOT APPLICABLE for sum payable by the assessee to a Micro or Small Enterprise beyond the time limit as specified in MSMED Act, 2006.**

Time Limit for Payment to MSME as specified u/s 15 of the Micro, Small and Medium Enterprise Development (MSMED) Act 2006 is as under: -

a) When there is **specific Written Agreement** - **within the time as specified in the written agreement or within 45 days from the date of Acceptance or deemed Acceptance, whichever is earlier;**

b) When there is **no Specific Agreement** - **within 15 days from the Date of Acceptance.** i.e. Date of Acceptance + 15 days = Due Date for making payment.

Effect of proposal in Finance Bill,2023 is explained with the help of example as under:-

a) Assessee is liable to make payment to M/s X Pvt Ltd (MSME) of Rs 5,00,000/- for supply of Good and services & there **is specific Written Agreement** specifying Due Date of payment as 45 days or more.

Date of Credit/ Acceptance	Due Date for Payment as per MSMED Act, 2006	Date of Actual Payment	Disallowance u/s 43B of the Act in AY 2024-25	Remarks
15/04/2023	30/05/2023	01/08/2023	NO	As it is paid during the year & not O/s as on 31.03.2024 thus, no disallowance u/s 43B of the Act.
31/03/2024	15/05/2024	12/05/2024	NO	Though it is O/s as on 31.03.2024 but the same is paid within the Due date of payment as specified in Section 15 of MSMED Act, 2006 thus, no disallowance u/s 43B of the Act.
31/03/2024	15/05/2024	20/05/2024	YES*	Since it is O/s as on 31.03.2024 & also not paid within the Due date of payment as specified in Section 15 of MSMED Act, 2006 thus, disallowed u/s 43B of the Act.

* The same will be allowed as deduction in the AY 2025-2026.

b) If Assessee is liable to make payment to M/s X Pvt Ltd (MSME) of Rs 5,00,000/- for supply of Good and services when there is **no specific Written Agreement**

Date of Credit/ Acceptance	Due Date for Payment as per MSMED Act, 2006	Date of Actual Payment	Disallowance u/s 43B of the Act in AY 2024-25	Remarks
15/04/2023	30/04/2023	01/08/2023	NO	As it is paid during the year & not O/s as on 31.03.2024 thus, no disallowance u/s 43B of the Act
31/03/2024	15/04/2024	12/04/2024	NO	Though it is O/s as on 31.03.2024 but the same is paid within the Due date of payment as specified in Section 15 of MSMED Act, 2006 thus, no disallowance u/s 43B of the Act.
31/03/2024	15/04/2024	20/04/2024	YES*	Since it is O/s as on 31.03.2024 & also not paid within the Due date of payment as specified in Section 15 of MSMED Act, 2006 thus, disallowed u/s 43B of the Act

* The same will be allowed as deduction in the AY 2025-2026.

Above proposed amendment shall come into force from AY 2024-25 onwards.

NBFCs' as notified by Central Government covered under the scope of 43B(da) of the Act: - [Amendment in Section 43B(da) of the Act]

At present, Interest on any loan or borrowing taken from Non-Banking Financial Company (NBFC) is disallowed u/s 43B(da) of the Act, if it has remained unpaid upto to the Due Date of filing Return of Income. The said disallowance is applicable only to following two categories of NBFC: -

a. Deposit taking NBFC &
b. Systematically Important Non-Deposit taking NBFC

Therefore, it is possible to argue that Interest on loan or borrowing from NBFC's, other than NBFC covered above are not hit by the provisions of Section 43B(da) of the Act.

Accordingly, it is now proposed **to cover all types of NBFCs' as notified by Central Government** so that, the provisions of Section 43B(da) applies to the interest on loan or borrowing taken from all the NBFC's as notified by Central Government.

Central Government shall issue a notification prescribing the different types of NBFCs' which will be covered under Section 43B(da) of the Act.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Widening the definition of Non-Banking Financial Companies (NBFC) covered under 43D of the Act: - [Amendment in Section 43D of the Act]

At present, as per Section 43D of the Act, Interest Income on Provision for Bad and Doubtful debts is taxable only in the hands of the following types of Non-Banking Financial Companies (NBFCs'): -

a) Deposit taking NBFC &

b) Systematically Important Non-Deposit taking NBFC

in the year in which it is credited to its Profit & Loss Account "OR" in the year in which it is actually received **whichever is earlier**.

Therefore, it is possible to argue that Interest earned by NBFC, other than NBFC covered above are not hit by the provisions of Section 43D of the Act.

Accordingly, it is now proposed to cover all types of NBFCs' as notified by Central Government within the scope of Section 43D of the Act.

Central Government shall issue a notification prescribing the different types of NBFCs' which will be covered under Section 43D of the Act.

It is clarified by way of proposed amendment in clause(h) of the explanation to section 43D of the Act. NBFC means: -

a) a financial institution which is a company;
b) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner and
c) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Enhancement of Threshold limit for Computing Profit & Gain of Business on Presumptive basis: - [Amendment in Section 44AD of the Act]

At Present: -

- Section 44AA deals with mandatory maintenance of Books of Accounts for certain class of Assessees.

- Section 44AB deals with compulsory Audit of Accounts for Assessee's whose Turnover or Gross receipts in any year is in excess of specified limit.

- Section 44AD deals with Presumptive Tax applicable to certain class of Assessee satisfying certain conditions. Some of the conditions are specified herein below: -

  - **Assessee is an Individual, HUF or a Partnership Firm;**
  - **Assessee has earned Business Income during any year &**
  - **His Turnover from Business does not exceed 2 Crore.**

- In case Assessee opts for presumptive tax system u/s 44AD and declares Income @ 6% of Turnover, if 95% of its Total Turnover or Gross Receipts are received through account payee bank draft or account payee cheque or through electronic clearing systems through a bank account or through such other electronic mode as may be prescribed, otherwise, assessee has to declare Income @8% of Turnover.

- If assessee opts for Presumptive taxation scheme, then he is not required to maintain Books of Accounts u/s 44AA and not required to get the accounts audited u/s 44AB of the Act.

- As per present provisions, once Assessee exercises option of presumptive tax he will have to **follow presumptive tax regime in 5 subsequent years from the first year** in which such option is exercised.

- In case after having opted for presumptive tax u/s 44AD of the Act in the first year, he opts not to exercise the option in any of the 5 subsequent years, then, he will be liable to maintain books of accounts and get the accounts audited for year in which he does not exercise the option and 5 subsequent years from the year in which he does not exercise option.

It is now proposed by way of insertion of PROVISO in Explanation {clause (b)} to section 44AD of the Act, to enhance the Turnover Limit of Computing Profit & Gains of Business on presumptive basis **from Rs 2 crore to Rs 3 crore** to be eligible to opt for Section 44AD of the Act, subject to the condition that, Aggregate Cash Receipts (Cash receipt includes Cheque drawn on a bank or by a bank draft other than account payee cheque/draft) do not exceed 5% of Total Turnover or Total Gross Receipts.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Enhancement of Threshold limit for Computing Profit & Gain of Profession on Presumptive basis: - [Amendment in Section 44ADA of the Act]

In order, to provide relief to small and medium Professional & to promote non-cash transactions threshold limit for computing Profit & Gain of eligible professions on presumptive basis is enhanced by way of Insertion of PROVISO in 44ADA (1) of the Act. Comparison of existing provisions of Section 44AB and 44ADA of the Act with the proposed amendments are tabulated below:

Gross Receipt from Profession (44ADA)	Situation	Applicability of Tax Audit u/s 44AB as per	
		Existing Provision	Proposed Amendment
≤ Rs 50 Lakhs	i) If 50% or more of Gross Receipts **declared** as Professional Income.	NO	NO
	ii) 50% or more of Gross Receipts **not declared** as Professional Income.	YES	YES
> Rs 50 Lakhs but ≤ Rs 75 Lakhs	i) If 50% or more of Gross Receipts **declared** as Professional Income.	YES	NO**(*)**
	ii) If 50% or more of Gross Receipts **Not declared** as Professional Income.	YES	YES
> Rs 75 Lakhs	44AD is not Applicable	YES	YES

(*) However, this enhanced limit of turnover (i.e. Rs 75 lakhs) is applicable only in cases where, Aggregate Cash Receipts (Cash receipt includes Cheque drawn on a bank or by a bank draft other than account payee cheque/draft) do not exceed 5% of Total Gross Receipts.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Amendment in 44AB of the Act consequent to Amendment in Section 44AD & 44ADA of the Act: - [Amendment in Section 44AB of the Act]

In Finance Bill, 2023 in order to provide relief to small and medium segment/profession & to promote non-cash transactions thresholds limit for computing Profit & Gain of eligible business & professions on presumptive basis are proposed to be enhanced as under: -

a) For Business u/s 44AD –From 2Cr to 3Cr (explained in detail above)

b) For Profession u/s 44ADA- From 50 lakhs to 75 lakhs (explained in detail above)

Subject to the condition that, Aggregate Cash Receipts (Cash receipt includes Cheque drawn on a bank or by a bank draft other than account payee cheque/draft) do not exceed 5% of Total Turnover or Total Gross Receipts.

Thus, in order to bring parity in respect of Turnover in the provisions of Section 44AB,44ADA & 44AD of the Act, it is proposed to Amend First PROVISO of Section 44AB of the Act that the provisions of Section 44AB of the Act, shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of Sub-section (1) of Section 44AD or Sub-section (1) of Section 44ADA of the Act.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Restriction on Set off of Brought Forward loss and Unabsorbed deprecation against Profit declared as per Presumptive Scheme: - [Amendment in Section 44BB (4) and Section 44BBB (3) of the Act]

- Presumptive Taxation Scheme gives small taxpayers a relief in relation to maintenance of books of accounts and audit under Section 44AA and 44AB of Income Tax Act, 1961 respectively.
- Accordingly, 44BB and 44BBB provides relief to Non-resident/Foreign Company, wherein, Total Income is computed on the basis of certain percentage of their gross total receipts. The existing provisions are explained as under: -

Particulars	Section 44BB of the Act	Section 44BBB of the Act
Applicability	Non- Resident	Foreign Company
Nature of Business	providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils.	civil construction or erection or testing or commissioning of plant or machinery in connection with a turnkey power project approved by the Central Government.

Particulars	Section 44BB of the Act	Section 44BBB of the Act
Deemed Profit / Gain chargeable under PGBP	**10% of following** a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of nature business (as mentioned above) in India. **AND** b) the amount received or deemed to be received in India by or on behalf of the assessee on account of nature business (as mentioned above) outside India.	10% of the amount paid or payable (whether in or out of India) to the said assessee or to any person on his behalf on account of nature business (as mentioned above).

However, it is observed that assessees' opt in and opt out of presumptive scheme, in order to avail benefit of both presumptive scheme Income and non-presumptive Income. The same is explained as under: -

In the Year of	Benefit claimed
Loss	Assessee claims Actual Loss as per the Books of Account and Carry it Forward to subsequent years.
Profit	Restrict the profit to 10% and set off the same from Unabsorbed depreciation & Brought Forward Losses of earlier years.

In order, to avoid such misuse, it is now proposed that, when an assessee declares Profit & Gain of Business for any previous year in accordance with provision of presumptive taxation as per Section 44BB and 44BBB of the Act then, **no set-off the brought forward loss and unabsorbed depreciation shall be allowed to the assessee for such previous year.**

Above proposed amendment shall come into force from AY 2024-25 onwards.

Full Value of Consideration as per provision of Section 45(5A) of the Act: [Amendment in Section 45(5A) of the Act]

Existing Provision of Section 45(5A) is explained as under: -

Nowadays, owner of a land or building or both enters into Joint Development Agreements (JDA) with a developer, wherein, the owner allows the developer to demolish existing structure and redevelop the new buildings meant for sale. In consideration, owner gets a share in the area of newly developed buildings and/ or monetary consideration.

There are certain juridical pronouncements wherein it is held that, the owner is liable to capital gain tax in the year in which he enters in to JDA. This resulted in undue hardship to the owner as he may not have received the entire consideration and still he is liable to tax.

In order to address this genuine hardship, a new Section 45(5A) together with consequential amendment in Section 49(7) was introduced in Finance Act 2017. The salient features of taxation contained in both the above provisions in case of JDA are explained below: -

a) The new provisions will apply only in case owner is an Individual or HUF;
b) In case of JDA, owner of the land & building shall be **liable to tax only in the year in which Occupancy Certificate is received** for the whole or part of the project and
c) The sales consideration in the hands of owner shall be the aggregate of the actual amount received through cash and stamp duty value as on the date of Occupancy Certificate of share in land and building received, if any.

Provisions of this Sub-section shall not apply where the owner transfers his share to any other person on or before the issue of said Occupancy certificate and in that case, the capital gains shall be deemed to be the income of the owner in the year in which such transfer took place as per the existing provisions of the act.

It is now proposed to include the consideration received not only in cash, but also by cheque or draft or by any other mode as part of Sales Consideration in the hands of the Owner.

In other words, **Full Value of Consideration as per provision of Section 45(5A) of the Act is as under: -**

a) Stamp Duty Value of Assessee's share

(+)

b) Any Consideration received in cash or by cheque or draft or by Any other mode

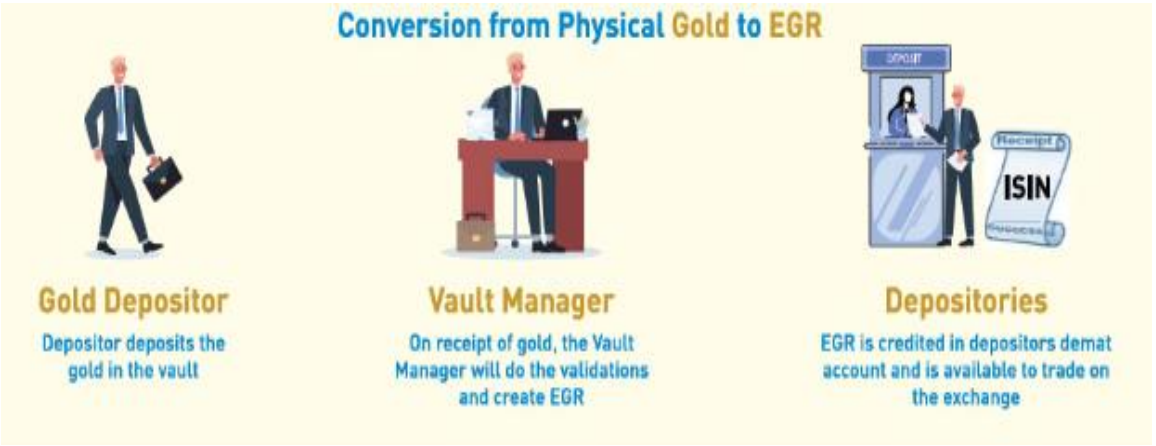
Above proposed amendment shall come into force from AY 2024-25 onwards.

Taxation on Conversion & Transfer of Physical Gold into Electronic Gold Receipt (herein after referred as "EGR") and EGR into Physical Gold: - [Amendment in Section 49 with corresponding amendment in section 47 & Section 2(42A) of the Act]

At present, there are 2 transactions which takes place in relation to Physical Gold & EGR namely, Conversion & Transfer.

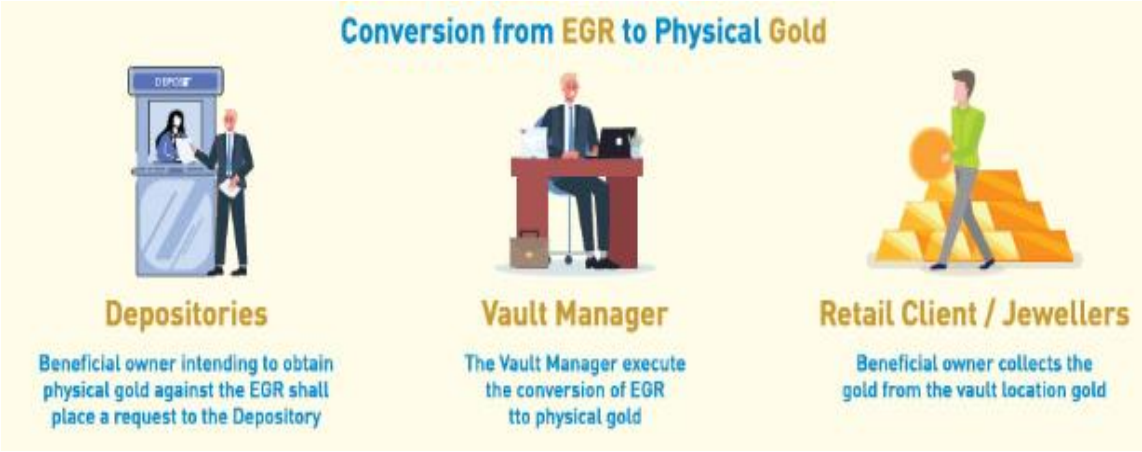
Stage –I CONVERSION

a) Conversion of Physical Gold to EGR



a) The Assessee who has physical gold in his possession which he wants to convert in the Electronic form, by depositing the Gold with the Vault Manager;
b) The Vault Manager will do the validations and then issue a EGR in Demat form;
c) Thereafter, EGR is credited in depositor's Demat Account and then the holder/Depositor of EGR can transfer the Gold through Demat to any buyer.

b) Conversion of EGR to Physical Gold



a) The Assessee who has EGR which he wants to convert into Physical Gold has to place a request to the Depository;
b) The Vault Manager will execute the conversion of EGR into Physical Gold;
c) Thereafter, Assessee will collect the Gold from the Vault Location.

It is now clarified by way of Proposed Insertion of clause (viid) in Section 47 of the Act, that Stage I i.e. Conversion of EGR into Physical Gold and vice versa is not regarded as "Transfer" for the purpose of Capital Gains, if the said conversion is carried out by the SEBI Registered Vault Manager.

Stage II –Transfer of Physical Gold or EGR

It is now clarified that at Stage II i.e. Transfer of Physical Gold /EGR will attract Capital Gain. For the purpose of computing Capital Gain, Period of Holding & Cost of Acquisition shall be calculated as under**: -**

COST OF ACQUISITION –

Situation	Cost of Acquisition as per Proposed Insertion of section 49(10) of the Act
Transfer of EGR (after its Conversion from Gold)	Cost of Physical Gold will be deemed to be the cost of EGR
Transfer of Physical Gold (after its Conversion from EGR)	*Cost of EGR will be deemed to be the cost of the Physical Gold

*Cost of EGR is also derived from the cost of acquisition of Physical Gold which is converted into EGR.

PERIOD OF HOLDING –

Example- 1

Date	Particulars
01/04/2020	Purchase of Physical Gold
31/03/2022	Conversion of Physical Gold into EGR
30/09/2023	EGR is sold

Period of Holding in this case on Transfer of EGR is 42 months i.e. from 1/4/2020 to 30/09/2023

Example- 2

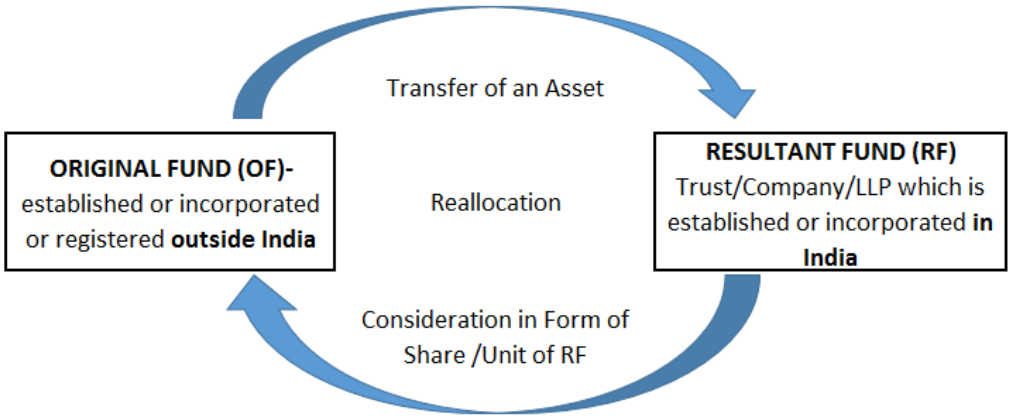
Date	Particulars
01/04/2019	Purchase of Physical Gold
31/03/2021	Conversion of Physical Gold into EGR
31/08/2023	Conversion of EGR into Physical Gold
30/09/2023	Physical Gold is sold

Period of Holding in this case on Transfer of Physical Gold is 54 months i.e. from 1/4/2019 to 30/09/2023

Above proposed amendment shall come into force from AY 2024-25 onwards.

Extension in Time-limit for Transferring Assets from the Original Fund: - [Amendment in Section 47(viiad)(b) of the Act]

Section 47 (viiad) of the Act, provides that any transfer by a shareholder or unitholder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund shall **not be treated as a transfer for the purpose of capital gains.**



At present, the time limit for transferring assets from the original fund, or its wholly owned special purpose vehicle, to a resultant fund in the event of relocation is on or before **31/03/2023.**

It is now proposed to extend the time limit from **31/03/2023 to 31/03/2025.**

Above proposed amendment shall come into force from AY 2023-24 onwards.

Prevention of double deduction claimed for acquiring, renewing or reconstructing a property & deduction claimed: - [Amendment in Section 48(ii) of the Act]

At present, there are various expenditure incurred for acquiring, renewing or reconstructing a property for which deductions are claimed by the Assessee. Details of Nature of Expenditure and head in which deduction is claimed is as under: -

Nature of Expenditure for acquiring, renewing or reconstructing a property	**Heads in which Deduction is claimed by the Assessee**
Interest on Borrowed Capital	a) From Income from House Property u/s 24(b) of the Act by amortizing said Interest paid over a period of 5 years. **AND** b) From Income from Capital Gain u/s 48 of the Act when Interest paid on Housing Loan is added to the Cost of the Property in case Interest relates to Pre-acquisition Period.
Stamp Duty & Registration Charges	a) Deduction Under Chapter VIA of the Act, u/s 80C of the Act **AND** b) From Income from Capital Gain u/s 48 of the Act when Stamp Duty & Registration Charges paid are added to the Cost of Acquisition of the Immovable Property.

There is Hon'ble Chennai ITAT decision in case of ACIT Vs C. Ramabrahmam (ITAT Chennai)- Appeal Number: IT Appeal No.943 (MDS.) OF 2012 Dated. 31/10/2012 which supports the above view. Since there is no bar in Income Tax to claim double deduction for the same expenditure, Hon'ble ITAT held that both the expenditure can be claimed under different heads i.e., income from 'house property' and 'capital gains'.

Relevant Extract of said ITAT decision is reproduced as under: -

"Deduction u/s 24(b) and computation of capital gains u/s 45 are altogether covered by different heads of income i.e., income from 'house property' and 'capital gains'. Further, a perusal of both the provisions makes it unambiguous that none of them excludes operative of the other. In other words, a deduction under Section 24(b) is claimed when concerned assessee declares income from 'house property', whereas, the cost of the same asset is taken into consideration when it is sold and capital gains are computed under Section 48.

Thus no doubt that the interest in question is indeed an expenditure in acquiring the asset. Since both provisions are altogether different, the assessee in the instant case is certainly entitled to include the interest amount at the time of computing capital gains under Section 48. CIT(A) has rightly accepted the assessee's contention - in favour of assessee."

In order, to plug the above loopholes, it is proposed by way of insertion of PROVISO in section 48(ii) of the Act that, the cost of acquisition or the cost of improvement u/s 48 of the Act **shall not include the amount of Interest claimed under Section 24 or deductions claimed under Chapter VIA of the Act**.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Provision for Taxation of Capital Gains in case of Market Linked Debentures: - [Insertion of Section 50AA of the Act]

MLD are Zero Coupons Debentures, wherein, Interest is not given during the Life of the Debentures. In other words, return on Investment is given at the time of Maturity of said Debentures.

At Present, Market Linked Debentures(MLD) are taxed as under: -

a) For Long Term Capital Gain (LTCG) holding period is 12 months, No Indexation is allowed & Tax applicable is @ 10%.

b) For Short Term Capital Gain (STCG) – Tax applicable is @ 15%

It is now proposed that, the Capital Gains arising from the transfer or redemption or maturity of these MLD, shall be **deemed to be capital gains arising from the transfer of a short term capital asset.** Accordingly, irrespective of holding period, the capital gain/loss will be **deemed to be short term capital gain/loss**.

Taxability- Short Term Capital gain on transfer or redemption or maturity of MLD will be taxed at applicable Rates.

It is hereby proposed to define MLD as a security which has following characteristics: -

a) which has an underlying principal component in the form of a debt security and
b) where the returns are linked to market returns on other underlying securities or indices and
c) include any securities classified or regulated as a Market Linked Debenture by Securities and Exchange Board of India.

Short term Capital Gain/Loss from the MLD shall be computed as under: -

Particulars	Amount
Full value of the consideration received or accruing as a result of the transfer or redemption or maturity of the MLD	xxx
Less:- the cost of acquisition of the debenture	(xxx)
Less:- the expenditure incurred wholly or exclusively in connection with transfer or redemption of such debenture (excluding STT Paid)	(xxx)
Short term Capital Gain/Loss on transfer or redemption or maturity of the MLD	**xxx**

Above proposed amendment shall come into force from AY 2024-25 onwards.

Limit of Rs 10crore imposed on capital gains on re-investment in residential properties: - [Amendment in Section 54 & 54F of the Act]

- Exemption u/s 54 of the Act is available on the Long-Term Capital Gain arising from transfer of a Residential House, if the Capital Gain is reinvested in a Residential House.
- Exemption u/s 54F of the Act is available on the Long-Term Capital Gain arising from transfer of any Long-Term Capital Asset except a Residential House, if the net consideration is reinvested in a Residential House.
- The primary objective of the Sections 54 and Section 54F of the Act was to mitigate the acute shortage of housing, and to give boost to house building activity.
- However, Tax on Capital Gains is avoided by investing proceeds of such Gains by purchasing very expensive Residential Property and then claiming exemption u/s 54 and 54F of the Act.
- Thus, it is now proposed to insert THIRD PROVISO in Section 54(1) & SECOND PROVISO in Section 54F (1) of the Act, imposing a limit on the **maximum cost of new asset that can be claimed by the assessee as re investment in Residential House Property under Section 54 and 54F to ₹10 crores**.
- In case, the cost of the new asset purchased is more than ₹10 crores, the cost of such asset shall be deemed to be ₹10 crores.
- It is also proposed by inserting SECOND PROVISO to Section 54(2) & 54F (4) of the Act, for the purpose of computing qualifying deposit amount in Capital Gain Account Scheme (CGAS) to claim exemption u/s 54 & 54F of the Act. Capital gain in excess of Rs 10 crore has to be ignored.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Defining the Cost of Acquisition & Cost of Improvement of certain assets for computing Capital Gain: - [Amendment in Section 55 of the Act]

- At present, Section 55 of the Act, defines the cost of acquisition & cost of improvement of specified assets for the purpose of computing Capital Gain.

- There are various assets like Intangible Asset, any sort of right for which No consideration is paid. For e.g. Sale of FSI /TDR right to developers

- The cost of acquisition of such assets is not clearly defined as 'NIL' in the present provision thus, there is still in a grey area as to how to compute the cost of acquisition & cost of improvement of those intangible asset and accordingly, compute capital gain in relation to the same.

- Since there is no specific provision which states that the cost of acquisition & cost of improvement of such assets is NIL, the chargeability of capital gains from transfer of such assets is in dispute.

- In Judgement of Bombay High Court in case of M/s Sambhaji Nagar Co-op. Hsg. Society Ltd v/s CIT, it was specifically held that, **where the Cost of Acquisition is not determinable, then provisions of Computation of Capital Gain fails and hence there is no capital gain tax applicable where Computation provision fails.**

Relevant Extracts of the said Judgment is re-produced as under: -

"In the present case, additional FSI/TDR is generated by change in the D. C. Rules. A specific insertion would therefore be necessary so as to ascertain its cost for computing the capital gains. Therefore, the Tribunal was in no error in concluding that the TDR which was generated by the plot/property/land and came to be transferred under a document in favour of the purchaser would not result in the gains being assessed to capital gains."

- Thus, to prevent unintended benefit to the assessee, it is now proposed to include all types of Intangible Assets and/or any type of rights which are acquired by the assessee & for which no specific cost is incurred by the assessee. In that case the cost of such Intangible assets or any other rights shall be taken at Nil for the purpose of computing Capital Gain on transfer of such Intangible Assets or other Rights.

Above proposed amendment shall come into force from AY 2024-25 onwards.

Eliminating the possibility of tax avoidance by widening the Scope of Section 56 of the Act: - [Amendment in section 56 of the Act]

As per Existing provisions of Section 56 of the Act, any consideration received by Closely held Company for issue of unquoted equity shares that **exceeds the fair market value** of the shares (hereinafter referred to as "such consideration") shall be chargeable to income-tax of Closely held company. However, the said section is **not applicable** for such consideration (share premium) **received from non-resident Investors.**

Accordingly, it is proposed to include such consideration **received also from a non-resident** under the ambit of clause (viib) of Section 56(2). This will make the provision applicable for **receipt of such consideration** from **any person** irrespective of his Residential status.

Comparison of existing Provision with proposed amendment is tabulated below: -

Particulars	**Existing Provision (upto AY 2024-25)**	**Proposed Amendment (AY 2024-25 onwards)**
Such consideration received from which type of investor	Resident Investor	Resident as well as **Non Resident investor**

Above proposed amendment shall come into force from AY 2024-25 onwards.

Provision relating to taxation of any sum including Redemption proceeds received by Unit holders from Business Trust: - [Insertion of section 56(2)(xii) in the Act]

At present, Section 115UA provides that any "Distributed Income" received by a unit holder by way of consideration from a business trust which is in the nature of interest, rent or dividend Income, such distributed Income shall be deemed to be income of such unit holder and shall be taxed in the same manner and shall be of the same nature and proportion as it had been received by Business Trust.

Further, at present any income other than the above is taxed in the hands of Business Trust at Maximum Marginal rate and distribution of such income is exempt in the hands of unit holder.

However, in respect of the **distributions** made by the business trust **to its unit holders** which are in the **not in the nature of Interest or Rent or dividend or which are in the nature of redemption of units**, it is actually an income of unit holder which does not suffer taxation either in the hands of business trust or in the hands of unit holder, which is not the intent of special taxation regime applicable to business trusts.

Hence, to curb the issue of non-taxation of certain incomes, it is proposed to introduce new section 56(2)(xii) in the Act.

Comparison of existing provision and proposed amendment is tabulated below: -

Sr No	Nature of Income	Existing Provision (upto AY 2023-24)		Proposed Amendment(w.e.f. AY 2024-25)	
		Taxable in the hands of	**Taxable under Section**	**Taxable in the hands of**	**Taxable under Section**
1	Interest Income received from SPV by Business Trust	Unit holders	115UA(3)	Unit holders	115UA(3)
2	Dividend received from SPV	Unit holders	115UA(3)	Unit holders	115UA(3)
3	Rental Income from Real Estate asset owned by Business Trust	Unit holders	115UA(3)	Unit holders	115UA(3)
4	STCG & LTCG of Business Trust	Business Trust	115UA(2)	Business Trust	115UA(2)
5	Business Income of Business Trust	Business Trust	115UA(2)	Business Trust	115UA(2)
6	Any other distributed Income not covered above	Business Trust	115UA(2)	**Unit holder**	56(2)(xii)
7	Redemption of units	No tax to Business trust or unitholders	**-**	**Unit holder**	56(2)(xii)

Example of how the profit will arise on redemption of units in the hands of Unitholders is explained below:

Opening Balance sheet of Business trust is as follows:

Liabilities	Rs.	Assets	Rs.
Capital contribution by Unit holders (10 holders x 10,00,000 units)	1,00,00,000	Share of Entities	20,00,000
		Interest yielding securities	30,00,000
		Investment in Property	30,00,000
		Invt. yielding Business Income	20,00,000
	1,00,00,000		**1,00,00,000**

Example of Income earned and distributed during the year:

Nature of Income	Taxable in the hands of	Total Income (Rs.)	Distributed (Rs.)	Undistributed (Rs.)
Business Income	Business Trust	3,00,000	3,00,000 (After payment of Tax)	NIL
Interest	Unit holders	2,70,000	70,000	2,00,000
Rental Income	Unit holders	1,80,000	-	1,80,000
Dividend	Unit holders	1,20,000	-	1,20,000
Total		**8,70,000**	**3,70,000**	**5,00,000**

Working of NAV of units as at the end of F.Y:

Particulars	No. of units	Total value (Rs.)
Face value of units	10,00,000	1,00,00,000
Add: Undistributed Income	-	5,00,000
Total		**1,05,00,000**
NAV per unit		**10.50**

Business Trust is redeeming aggregate of 5,00,000 units proportionately to all unit holders (50,000 units to each unit holder)

Calculation of Taxable income at the time of redemption:

Particulars	Amount (Rs.)
50,000 units redeemed per unit holder at NAV of Rs.10.5/-	5,25,000
Less: cost of acquisition of units redeemed (50,000 units of Rs.10 each)	5,00,000
Taxable income u/s 56(2)(xii)	**25,000**

Working of Total Income in the hands of each unit holder:

Particulars	Total Income	Share of unitholder
Interest u/s 115UA	70,000	7,000
Redemption Amount u/s 56(2)(xii)	-	25,000
Income from other sources		**32,000**

Above proposed amendment shall come into force from AY 2024-25 onwards.

Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger: - [Amendment in Section 72A of the Act]

Section 72A defines Conditions for carry forward and set off of loss and unabsorbed depreciation in the case of strategic disinvestment. Government has proposed to amend the definition of Strategic disinvestment.

Comparison of existing provision with proposed amendment is tabulated below: -

Sr No.	Conditions for Strategic Disinvestment	
	Existing Provision (upto AY 2022-23)	**Proposed Amendment (w.e.f. AY 2023-24)**
1	Defined as sale of shareholding by the Central Government or any State Government in a public sector company to the buyer	Defined as sale of shareholding by the Central Government or any State Government **or Public sector company** in a public sector company to the buyer.
2	Reduction of shareholding below 51% even though shareholding before disinvestment was less than 51% is also strategic disinvestment (For e.g.: Before Disinvestment: 45% After Disinvestment: 27%)	Reduction of shareholding below 51% only if Shareholding before disinvestment **was more than 51% is** Strategic Disinvestment (For e.g.: **Before Disinvestment: 54%** After Disinvestment: 27%)
3	Transfer of control to the buyer	Transfer of control may be carried out by either from Central Government or state Government **or Public sector company (or any two of them or all of them)** to the buyer

So it is proposed that if Amalgamation or Demerger is of the nature of Strategic Disinvestment as amended and explained above, only then carry forward and set off of losses and unabsorbed depreciation will be allowed in the hands of resulting Company.

The above proposed amendment is specifically brought in order to cover the strategic disinvestment of IDBI bank.

Above proposed amendment shall come into force from A.Y.2023-24 onwards.

Carry forward and set off of accumulated loss and unabsorbed depreciation allowance in scheme of amalgamation in certain cases: - [Amendment in Section 72AA of the Act]

At Present, Section 72AA of the Act relates to carry forward of accumulated losses and unabsorbed depreciation allowance in a scheme of amalgamation in certain cases which includes amalgamation of one or more banking company with any other banking institution.

Comparison of existing provision and proposed amendment is tabulated below: -

Sr No.	Existing Provision	Proposed Amendment
1	Amalgamation of one or more banking company with any other banking institution	Amalgamation of one or more banking company with any other banking institution
2	-	one or more banking company with any other banking institution or a company subsequent to a strategic disinvestment, wherein the amalgamation is carried out within a period of **five years from year of Strategic disinvestment**

It is now proposed that Accumulated losses and Unabsorbed depreciation of Amalgamating company would be allowed to be carried forward by Amalgamated Company subject to following conditions:

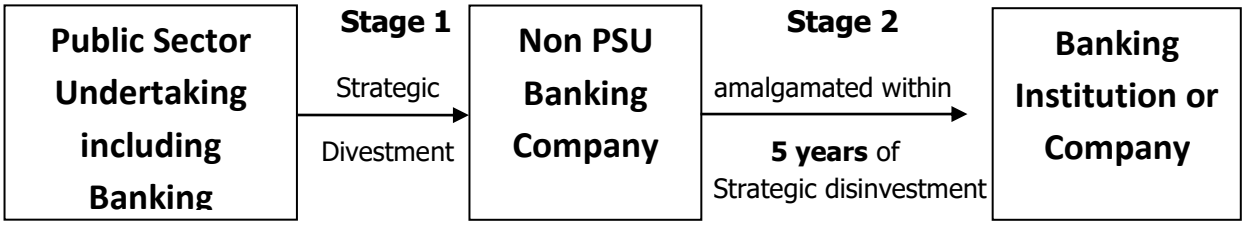
At Stage I

- Strategic Disinvestment of public sector Undertaking into Non Public Sector Banking Company.

At Stage II

- Amalgamation of one or more non PSU Banking Company (resulting out of Strategic Disinvestment) with any other Banking Institution or Company within a period of 5 years from end of year in which strategic disinvestment took place.

The same has been illustrated below:



In the above Scenario: -

a) Losses of Public sector undertaking including Banking Company shall be allowed to be carried forward by Non-PSU Banking company.

b) Loss of Non-PSU banking Company shall be allowed to be carried forward by resulting Company.

Above proposed amendment shall come into force from A.Y.2023-24 onwards.

Carry forward and set off of losses in case of certain companies: - [Amendment to Section 79 of the Act]

As per Existing provision of Section 79 of the Act, in case of Eligible Startup the loss can be carried forward and Set off only if it has been incurred during the period of 7 years beginning from the year in which such company is incorporated provided all the shareholders who held shares in the year of loss continue to remain shareholder at the last day of previous year.

Eligible Business is a one which involves innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth Creation.

With a view to gear up the growth of Startups in India and to align period of 7 years with the period of 10 years for claiming benefits of eligible business, Government has proposed to amend this section extending the period of loss, the details of which are tabulated as under: -

Condition for allowing Carried forward of Losses in case of Change of Shareholding in Startups	**Existing Provision (upto AY 2022-23)**	**Proposed Amendment (AY 2023-24 onwards)**
Period of Loss Incurred from year of Incorporation which can be set off	7 years	**10 years**

Above proposed amendment shall come into force from A.Y.2023-24 onwards.

Removal of certain funds from Section 80G of the Act [Omission in Section 80G of the Act]

At Present, section 80G of the Act provides deductions in respect of donations made to specified Institutions and funds to whom approval has been granted by the Central Government.

Sub-section (2) of section 80G provides the list of these funds to which any sum paid by the Assessee in the previous year as donations is allowed as a deduction to an extent of 50% /100% of the amount so donated.

It is proposed that, donation to following shall **no longer be qualified for deduction** u/s 80G: -

a) The Jawaharlal Nehru Memorial Fund;

b) The Indira Gandhi memorial trust;

c) The Rajiv Gandhi Foundation.

Above proposed amendment shall come into force from A.Y 2024-25 onwards.

Extension of date of incorporation for eligible start-up for exemption: - [Amendment in Section 80-IAC of the Act]

As per existing provision of Section 80-IAC, Eligible start-ups were allowed a benefit of 100% deduction of Profits derived for 3 consecutive Assessment years out of 10 years beginning from year of incorporation, at the option of Assessee, subject to following condition:

a) Total Turnover< 100 Crore;
b) Certificate of eligible business from the Inter-Ministerial Board and
c) Incorporated on or after 01-04-2016 but before 31-03-2023.

Accordingly, the proposed amendment extends benefits to start-ups in India to promote the development of start-ups and provide them with competitive platform by extending the period of incorporation of eligible start-ups to 31-03-2024.

Comparison of existing provision with proposed amendment has been tabulated below: -

Existing Provision	**Proposed Amendment (from 1st April, 2023)**
The year of incorporation of eligible start-up was **on or after 1st April, 2016 to 31st March, 2023.**	The year of incorporation is proposed to be **extended to 31st March, 2024**.

Above proposed amendment shall come into force from A.Y 2023-24 onwards.

Omission of redundant provision of the Act [Deletion of Section 88 of the Act]

Section 88 was introduced in AY 1992-93, wherein certain investments/ payments were eligible for tax rebate and not a deduction from Income. Examples of such payments were life insurance premium, contribution in provident fund, approved superannuation fund, NSC, etc.

There was a sunset clause under the above provision of section 88 wherein tax rebate was allowed only upto A.Y 2005-06.

The above section 88 is **proposed to be deleted permanently from the statute as it is redundant** and consequent changes are made in several provisions of Income Tax Act wherein the reference to section 88 is also deleted from respective sections.

Above proposed amendment shall come into force from A.Y 2023-24 onwards.

Maintenance, keeping and furnishing of Information and document by certain persons: - [Amendment in Section 92D of the Act]

Section 92D of the Act provides that every person who has entered into an International Transaction or a Specified Domestic Transaction shall keep and maintain the information and documents as provided under rule 10D of the Income Tax Rules, 1962.

At present, the Assessing Officer or Commissioner (Appeals) may require such person to **furnish any information** or documents within a **period of 30 days** from date of receipt of Notice. It is further provided that on application made by Assessee the time period of 30 days may be **extended by an additional period of 30 days.**

On several occasions due to limited time available with Assessing Officer or Commissioner (Appeals) for carrying out Transfer Pricing proceedings, it may not be **practically possible to provide minimum 30 days** for producing these information or documents which are already in possession of Assessee. Accordingly, to provide **reasonable time to AO for examining information/documents** submitted and complete the pending proceedings, the time period was required to be rationalised.

Accordingly, the time limit for furnishing the Information/documents is proposed to be amended as under: -

Provision of Section 92D	Existing Provision (upto AY 2022-23)	Proposed Amendment (AY 2023-24 onwards)
Time limit for furnishing documents/Information	30 days	**10 days**
Additional Time limit for providing Information	30 days	**30 days**

Above proposed amendment shall come into force from A.Y.2023-24 onwards.

Rationalization of Provision for Non-Banking Financial Company (NBFC) from restriction on Interest deductibility: - [Amendment in Section 94B of the Act]

At present, section 94B provides restriction on **deduction of interest expense** by Indian company or Permanent Establishment of Foreign Company in respect of debt issued by its Associated enterprise.

However, **no such disallowance** is made u/s 94B of the Act **if the interest payable** to Associated enterprise **does not exceed Rs.1 crore.**

The amount of disallowance of Interest described u/s 94B is

Lower of the following:

Total Interest paid - 30% of its EBITDA

or

Interest paid or payable to Associated Enterprise.

The said restriction on allowability of interest is not applicable to Companies engaged in business of banking or insurance as per current provision contained in section 94B of the Act.

However, at present, the NBFCs are covered by the disallowance of interest u/s 94B of the Act. It is represented to the Government that in case of certain NBFC engaged in the Business of Financing, they carry out similar activities and are also subject to similar regulations and compliances as that of Banking company. **Hence it is proposed to also exclude such class of NBFC from the rigour of disallowance of interest u/s Section 94B of the Act.**

*Non-Banking Financial Company shall have same meaning as assigned to it in Section 45 of RBI Act, 1934

Above proposed amendment shall come into force from A.Y.2024-25 onwards.

Amendment to Provisions relating to Alternative Scheme of Taxation with Concessional Rate [Amendment to Section 115BAC of the Act]

1. At present, the provisions relating to Alternative Scheme of Taxation with concessional rates is applicable only to **Individual and Hindu Undivided Family**.

   It is now proposed to include other class of Assessee's as well under purview of alternative scheme of taxation with concessional rate.

   Comparison of existing Provision with proposed amendment is tabulated below:

Particulars	**Existing Provisions (From A.Y. 2021-22 to A.Y. 2023-24)**	**Proposed Amendments (W.e.f. A.Y. 2024-25)**
Section	115BAC (1)	115BAC(1A)
Applicability to Persons	• Individual • Hindu Undivided Family	• Individual • Hindu Undivided Family • AOPs* (other than a co-operative society) • BOIs whether incorporated or not • An Artificial Judicial Person • Other than a person who has opted Normal Tax option
Procedure for exercising the option	**For Assessee having Business Income** On or before Due date of filing ITR u/s 139(1) of the relevant A.Y. **Having no business income** Along with Return of Income filed u/s 139(1)	Scheme of taxation with concessional rate proposed to become the **Default Tax Option**. In other words, there is no need to file any separate form to opt for concessional rate of tax.

* In our opinion, the legislator should clarify whether such scheme of concessional rate of tax shall also apply to AOPs covered by 167B of the Act where Share of Beneficiaries are unknown or indeterminate. A suitable amendment in this regard is expected before the Budget is passed in the Parliament.

2. **Applicability of Rate of Taxes in case Concessional Rate of Tax u/s 115BAC is opted: -**

Existing Tax Rates (Upto A.Y. 2023-2024	
Total Income	**Rate of Tax**
Upto Rs. 2,50,000	Nil
From Rs. 2,50,001 to Rs. 5,00,000	5%
From Rs. 5,00,001 to Rs. 7,50,000	10%
From Rs. 7,50,001 to Rs. 10,00,000	15%
From Rs. 10,00,001 to Rs. 12,50,000	20%
From Rs. 12,50,001 to Rs. 15,00,000	25%
Above Rs. 15,00,000	30%

Proposed Tax Rates (W.e.f. A.Y. 2024-25)	
Total Income	**Rate of Tax**
Upto Rs. 3,00,000	Nil
From Rs. 3,00,001 to Rs. 6,00,000	5%
From Rs. 6,00,001 to Rs. 9,00,000	10%
From Rs. 9,00,001 to Rs. 12,00,000	15%
From Rs. 12,00,001 to Rs. 15,00,000	20%
Above Rs. 15,00,000	30%

3. **List of Exemptions or Deduction, allowable or not allowable for the purposes of Computing Income Chargeable to tax u/s 115BAC of the Act**

Sr. No.	**Section No.**	**Description**	**Allowable or not**	
			Existing (Upto A.Y. 2023-24)	**Proposed (W.e.f. A.Y. 2024-25)**
1	10(5)	Leave Travel Concession	No	No
2	10(13A)	House Rent Allowance	No	No
3	10(14)	Prescribed allowances or benefits (eg. Children	No	No
4	10(17)	Allowances to MPs/MLAs	No	No
5	10(32)	Exemption in case of Clubbing of Income of Minor Child	No	No
6	10AA	Exemption for SEZ unit	No	No
7		Deduction for	No	No

Sr. No.	Section No.	Description	Allowable or not	
			Existing (Upto A.Y. 2023-24)	Proposed (W.e.f. A.Y. 2024-25)
	16(ii)	Entertainment Allowance		
8	16(iii)	Deduction for Employment/Professional Tax	No	No
9	24(b)	Interest in respect of House property	No	No
10	32(1)(iia)	Additional deprecation	No	No
11	32AD	Investment in new plant or machinery in notified backward areas in certain States	No	No
12	33AB	Tea development account, coffee development account and rubber development account	No	No
13	33ABA	Site Restoration Fund	No	No
14	35	Expenditure on scientific research	No	No
15	35AD	Deduction in respect of expenditure on specified business	No	No
16	35CCC	Rural development allowance	No	No
17	Chapter VI-A	All deductions except 80JJAA, 80LA (Only in case of Unit in IFSC), 80CCH and 80M	No	No
18	80CCD	Contribution to pension scheme of Central Government	Yes	Yes
19	80JJAA	Deduction in respect of employment of new	Yes	Yes

Sr. No.	Section No.	Description	Allowable or not	
			Existing (Upto A.Y. 2023-24)	Proposed (W.e.f. A.Y. 2024-25)
		employees		
20	80LA (Only in case of Unit in IFSC)	Deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre	Yes	Yes
21	**16(ia)**	**Standard Deduction upto Rs. 50,000/- under the head Salaries**	**No**	**Yes**
22	**57(iia)**	**Deduction in respect of Family Pension**	**No**	**Yes**
23	**80CCH**	**Amount deposited in Agniveer Corpus Fund**	**No**	**Yes***

***** Deduction u/s 80CCH is proposed to be allowed w.e.f. A.Y. 2023-24

4. **Adjustment of Opening WDV in case option of concessional rate of tax is exercised for the first time.**

In the following situation, adjustment in the Opening WDV of Depreciable Asset is required to be done**.**

a) If the Assessee has not opted for concessional Rate of Tax in the prescribed manner for A.Y. 2023-24 or any other prior years;

b) Assessee is filing Return as per provisions of Section 115BAC(1A);

c) Depreciation Allowance in respect of a block of asset has not been given full effect upto A.Y 2023-24 due to inadequacy of profits; and

d) The Unabsorbed depreciation is in relation to those deductions and exemptions which are not allowable as mentioned in sr. no. 3 above.

In the above situation, **adjustment** is required to be made to the **Opening WDV** of such block of assets in a prescribed manner as on **first day of April 2023.**

The adjustment of opening WDV is explained by way of an illustration as under: -

A.Y 2023-2024		
Sr.No.	**Particulars**	**Amount**
1	Opening WDV as on 01.04.2022	1000
2	Less : Depreciation for FY 22-23	150
3	Closing WDV as on 31.03.2023	850
4	Taxable Business Income before Depreciation	100
5	Less : Depreciation allowed (restricted to amount of Income)	100
6	Unabsorbed Depreciation (150-100)	50

A.Y 2024-2025		
Sr.No.	**Particulars**	**Amount**
1	Opening WDV as on 01.04.2023 (sr. no. 3 above) [**Original WDV]**	850
2	Add: Adjustment of unabsorbed Depreciation (sr. no. 6 above)	50
3	Revised Opening WDV as on 01.04.2023 **[Revised WDV] eligible for depreciation**	**900**

The above adjustment is necessary as the unabsorbed depreciation in relation to any of the exemptions or deductions is not allowed to be carried forward to the subsequent financial year if concessional rate of tax is opted and hence WDV of the asset is required to be increased to that extent.

5. **Concessional rate of tax is proposed to become the Default Tax option**

However, Assessees can continue with the option of Normal rate of Tax if they wish to by filing a prescribed form for exercising the said option.

Procedure for exercising the option of Normal rate of Tax is explained below:

Type of Assessee	Due Date for exercising option	Whether One Time or Each year
Having Business Income	On or before Due date of filing ITR u/s 139(1) of the relevant A.Y.	One Time
Having No Business income	Along with Return of Income filed u/s 139(1)	Every Year

Revocation of the Option once Exercised: -

Sr. No.	Assessee	Remarks
1	Any Individual / HUF not having Business Income	Revocation of the option can be done in any Subsequent Assessment Year and can be re opted at any time in years after
2	Any Individual / HUF having Business Income	Revocation of the option can be done only once after it is exercised. In that case assessee will never be eligible to exercise this option again
3	Any Individual / HUF having Business Income at the time of exercising but ceases to have business income afterwards	Revocation of the option can be done in any Subsequent Assessment Year from the year in which the business income ceases. Assessee can also re opt in any year afterwards

Above proposed amendment shall come into force from A.Y.2024-25 onwards.

Insertion of new section 115BAE [15% concessional tax to promote co-operative societies carrying out Manufacturing activities]

1. At present, only Domestic Companies satisfying following conditions are eligible to opt for a concessional rate of tax @ 15%.
   a) Domestic Companies set up and registered on or after 01.10.2019;
   b) It commences manufacturing or production activities on or before 31.03.2024;
   c) It does not avail of any specified incentive or deductions which are otherwise allowable as per the Act.

   However, there is no provision for concessional rate of tax of 15% applicable to Co-operative Societies engaged in the business manufacturing activities.

   Thus, to provide option of concessional rate of tax @ 15% to Co-operative societies engaged in the business of manufacturing activities in the same manner as domestic companies engaged in the business of manufacturing activities, it is now proposed to insert a new **Section 115BAE** in which concessional tax regime is being proposed for the cooperative societies carrying out new manufacturing if it satisfies following conditions: -

   a) Co-operative societies set up and registered on or after 01.04.2023,
   b) It commences manufacturing or production activities on or before 31.03.2024
   c) It does not avail of any specified incentive or deductions which are otherwise allowable as per the Act.
   d) The business is not formed by splitting up, or the reconstruction, of a business already in existence.

2. All other existing conditions and provisions applicable to domestic companies (as specified u/s 115BAB) for eligibility to claim concessional rate shall also apply to cooperative societies intending to avail concessional rate of Tax of 15%.

3. Table depicting the Rate of Tax applicable to Corporate Entities (Section 115BAA & Section 115BAB) and Co-Operative Societies (Section 115BAD & Section 115BAE) is given below:-

Particulars	**Existing Provision upto A.Y 2023-24**		**Proposed Amendment Provision upto A.Y 2023-24**	
	Domestic Companies	**Co-operative Societies**	**Domestic Companies**	**Co-operative Societies**
Entity carrying out **Non-Manufacturing Activities**	22%	22%	22%	22%
Entity carrying out **Manufacturing Activities**	15%	**22%**	15%	**15%**

* Surcharge @ 10% and cess @ 4% to be applied over above Basic Tax Rate.

4. Co-operative societies engaged in the business of Manufacturing activities as specified in this section can opt concessional rate of tax of 15% by filing declaration in a prescribed form on or before Due date of filing ITR u/s 139(1) of the relevant A.Y.

5. It is also clarified that the said option is to be exercised only in the first year in which such concessional rate of tax is obtained.

6. The Option Once Exercised **cannot be subsequently withdrawn** for the same or any other year.

Above proposed amendment shall come into force from A.Y.2024-25 onwards.

Special provisions for payment of tax by certain persons other than a company & Tax credit for alternate minimum tax: -
[Identical amendment in Section 115JC and Section 115JD of the Act]

Section 115JC provides an assessee liable to Alternate Minimum Tax should obtain a report certifying the adjusted total income and the alternate minimum tax duly computed, by an accountant and furnish the report on or before the due date of filing of the return in Form 29C.

Section 115JD provides that the tax credit paid by a non-corporate on account of AMT shall be allowed to be carry forward the extent of the excess of the AMT paid over the regular Income-tax.

The said AMT credit shall be allowed to be set off in the subsequent year in which the liability as per regular income tax is more than liability as per AMT and the amount of credit allowed shall be the excess of regular income tax over AMT liability, to the extent of AMT credit available.

Finance Bill 2023 has also brought in lower tax option for the co-operative societies engaged in the business of manufacturing activity, subject to conditions specified therein.

Accordingly, a consequential amendment is made in section 115JC and 115JD of the Act.

Comparison of present provisions and proposed amendments with respect to applicability of above provisions are tabulated below:

Particulars	**Existing Provision**	**Proposed amendment**
Non-applicability of 115JC & 115JD	The said sections are not applicable to a person: - • Exercising the option u/s **115BAC or section 115BAD**	The said sections are not applicable to a person: - • Exercising the option u/s 115BAC or section 115BAD or **section 115BAE** • whose **income tax payable is computed under section 115BAC**

Above proposed amendment shall come into force from AY 2024-25 onwards.

Assistance to authorized officer during search and seizure: - [Amendment to Section 132 of the Act]

Section 132 of the Act makes provisions related to powers of income-tax authority during search and seizure.

As per the existing provision, the authorized officer may requisite the services of any police officer or any officer of the Central Government during the course of search, to assist him during the search and it shall be the duty of such officer to comply.

Further, the authorized officer may also refer to the valuation officer for estimating the fair market value of the property either during the search or within 60 days from the date of executing the last authorization for search.

However, due to the following reasons, Authorized person may require services of any other person or entity for assistance in search and seizure operation: -

a) Increased use of technology and digitisation in every aspect requiring the use of data forensics, advanced technologies, the procedure for search and seizure has become complex.

b) Increasing trend of undisclosed income being held in a vast variety of forms of assets or investments in addition to immovable property.

c) Valuation of assets and decryption of information and typical nature of operations often require specific domain experts like digital forensic professionals, valuers, archive experts etc.

Therefore, Bill proposes to amend by providing that the authorised officer may:

a) requisite the services of **any other person or entity**, as approved by the Principal Chief Commissioner or the Chief Commissioner, the Principal Director General or the Director General to assist him during the course of search.

b) refer to **any person or entity or any valuer registered by or under any law** for the time being in force, who shall estimate the fair market value of the property and submit a report of the estimate to the authorised officer or the Assessing Officer within sixty days from the receipt of such reference.

Above proposed amendment shall come into force from 1st April, 2023 onwards.

Clarification regarding advance tax while filing updated return: - [Amendment to Section 140B of the Act]

At present, section 140B (4) of the Act provides for the computation of interest u/s 234B of the Act on the tax on updated return.

It provides that interest payable u/s 234B of the Act shall be computed on

- an amount equal to the assessed tax or
- the amount by which the advance tax paid falls short of the assessed tax.

This is implied that interest is payable only on the difference of the assessed tax and advance tax.

Further, it also provides that for computing the amount on which the interest is to be paid, advance tax which is claimed in earlier Return of Income shall be taken into account

Proposed amendment explains that interest payable u/s 234B shall be computed on

- an amount equal to the assessed tax as reduced by the amount of advance tax, the credit for which has been claimed in the earlier return, if any.

Therefore, in our opinion as per the proposed amendment, credit of advance tax may be available only when the same is shown in the updated and such earlier return is duly filed in which credit of advance tax is claimed.

However, issue is not free from doubt

Above proposed amendment shall come into force retrospectively from the 1st April, 2022.

Income by way of Online Games [Amendment in Section 115BB and Insertion of Section 115BBJ of the Act]

At present, Section 115BB provides for the scheme of Taxation on Winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature whatsoever. The income arising out of Winnings from Online gaming is covered by Section 115BB of the Act.

It is now proposed not to apply the provisions of Section 115BB of the Act on Income earned by way of Net Winnings from Online Games and a **new scheme of taxation** is proposed to be introduced for the first time in respect of Income earned from Net winnings from Online Games in **newly inserted Section 115BBJ of the Act**.

Brief salient features of the new scheme of taxation on income from Online Games contained in Section 115BBJ of the Act are as follows:

a) "Online Game" means a game that is offered on the internet and is accessible by a user through a computer resource including any telecommunication device;
b) In case, an assessee wins certain online games and earns income out of it and incurs loss by losing certain online games, then tax is calculated on the Net Income arrived at after deducting the losses incurred;
c) The manner of computation of the Net Winnings from Online Gaming shall be prescribed in due course;
d) Rate of Tax applicable on Online Gaming shall be **@ 30%**;
e) Balance Income other than Income from Online Gaming earned by the assessee shall be taxed as per Normal Provisions of the Act;

Above proposed amendments shall come into force from A.Y. 2024-2025 onwards.

Consequential Insertion of Section 194BA of the Act to provide TDS on Winnings from Online Games

Salient features of the new scheme of TDS contained u/s 194BA of the Act are as follows:

a) Deductor – Person responsible for making Payment
   Examples of such persons are Delta Corp Ltd., Nazara Technologies Ltd., Dream11 Fantasy Pvt. Ltd., etc.

b) Deductee – Any Person

c) Threshold Limit – No Limit

d) **TDS Rate – 30%** of Net Winnings arrived at after deducting Losses

e) Due Date for Deduction of Tax –

1. If amount is withdrawn from the user account during the Financial Year – TDS to be deducted at the time of such withdrawal
2. If amount is **NOT** withdrawn from the user account during the Financial Year – TDS to be deducted at the end of Financial Year.

f) **Due Date for Payment of TDS -** It is expected that a consequential amendment shall be made in Rule 30 of Income Tax Rules, 1962 providing for Due Date for Payment of TDS u/s 194BA of the Act.

g) Winnings can be in cash or in kind or both

In case net winnings are wholly in kind or partly in cash and partly in kind and the cash portion is not sufficient to meet the liability of deduction of tax in respect of net winnings, the **Deductor shall ensure** that tax in relation to such net winnings has been paid to the government before releasing such winnings.

Above proposed amendments shall come into force from 1st July, 2023 onwards.

Proposed amendment to grant power to the Assessing Officer to direct the Assessee to get the Inventory Valued by a Cost Accountant [Amendment to Section 142(2A) and Consequential Amendment to Explanation 1 of Section 153 and Section 295 of the Act]

It is observed that there are cases of permanent deferral of tax through undervaluation of inventory resulting in loss of Tax Revenue to the Government. As per the exiting statue, there is no provision granting Assessing Officer the power to direct Assessee to get their inventory valued.

In order to prevent such losses and ensure that the inventory is valued in accordance with various provisions of the law and accounting standards, it is now proposed to amend Section 142 of the Act to grant power to the Assessing Officer to direct the Assessee to get the inventory valued by a practicing Cost Accountant, nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

The Assessee shall then be required to furnish report of Inventory Valuation in prescribed form duly signed and verified by the practicing Cost Accountant, and such other particulars as required by the Assessing Officer.

It is proposed that the Assessee shall be given an opportunity of being heard in respect of any material gathered, on the basis of the Inventory Valuation, that is proposed to be utilised during the Assessment proceedings.

It is also proposed that, expenses relating to such inventory valuation shall be determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and shall be paid by the Central Government.

Above proposed amendment in section 142 shall come into force from 1st April, 2023 and will accordingly apply from A.Y. 2023-2024 onwards.

Consequential amendment to Section 295 of the Act to grant power to CBDT to make rules for the form of prescription of report of Inventory Valuation.

Section 295 of the Act grants powers to the Central Board of Direct Taxes (CBDT) to make rules for carrying out the purposes of Income Tax Act, subject to the control of the Central Government.

Currently, clause (eec) of section 295(2) of the Act, grants CBDT powers to make rules regarding the form of Audit Report of a Chartered Accountant which Assessing Officer directs Assessee to furnish u/s 142(2A) of the Act and the particulars which the Audit Report shall contain.

It is now proposed to amend clause (eec) of section 295(2) of the Act, to also grant the power to CBDT to make rules regarding the form of Inventory Valuation Report from a Cost Accountant which the Assessing Officer may direct the Assessee to furnish under the proposed amendment to section 142(2A) of the Act and the particulars which the Inventory Valuation Report shall contain.

Above proposed amendment in section 295 shall come into force from 1st April, 2023 onwards.

Consequential Amendment to Explanation 1 to Section 153

In case where Inventory valuation is directed by the Assessing Officer u/s 142(2A), it is now proposed that the time taken to get the Inventory valued shall be excluded from the period allowed to the Assessing Officer for completing the Assessment or Reassessment.

The period proposed to be excluded shall be calculated from the date on which the Assessing Officer directs the assessee to get his Inventory valued –

a) till the last date on which the Assessee is required to furnish the Inventory valuation report; or

b) in case where the direction is challenged before a court, till the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner.

In case where proceedings are stayed for various reasons as specified in Explanation 1 to Section 153, and the time left immediately after the exclusion of the period specified is less than 60 days, then the time allowed to the Assessing Officer to complete the Assessment is minimum 60 days.

Above provision is proposed to be extended also for Updated Return filed u/s 139(8A) of the Act.

Above proposed amendment in section 153 shall come into force from 1st April, 2023 and will accordingly apply from A.Y. 2023-2024 onwards.

Extension of Time limit for furnishing Return of Income in response to Notice u/s 148 [Amendment to Section 148 of the Act]: -

In order to further streamline and facilitate smooth conduct and completion of Reassessment proceedings in a seamless manner, it is proposed to extend the time limit to furnish Return of Income in response to Notice u/s 148.

At Present, Assessee is required to file a Return of Income within a period of 30 days from the date of receipt of the Notice u/s 148 of the Act.

It is now proposed to provide a time limit of 3 months to file a Return of Income in response to notice u/s 148 of the Act from the end of the month in which the said notice u/s 148 of the Act is issued.

Comparison of existing provision with proposed amendments relating to the time period for furnishing Return of Income in response to Notice u/s 148 is tabulated as under: -

Date of Notice issued u/s 148	**Due date for furnishing Return of Income**	
	Under Existing provisions	**Under Proposed Amendments (1st April, 2023 onwards)**
15th January, 2023	14th February, 2023 (i.e. 30 days from 15th January, 2023)	30th April, 2023 (i.e. 3 months from 31st January, 2023)

Also, at present there is no provision about the treatment of Return of Income filed beyond the prescribed time limit as specified in Section 148 of the Act. In other words, there is a grey area about the validity of Return of Income filed beyond the time limit prescribed u/s 148 of the Act. Presently, there is a litigation in the court as to whether notice u/s 143(2) of the Act is required to be issued in case the Return of Income is filed in pursuant to section 148 of the Act beyond 30 days from the date of issue of such notice.

In order to bring clarity to the issue it is now proposed that any Return of Income required to be furnished in response to notice u/s 148 of the Act and is furnished beyond the time period allowed u/s 148 shall not be deemed to be a Return filed u/s 139 of the Act. This proposed amendment will put to rest any ambiguity about the validity of Return of Income filed beyond the time limit allowed u/s 148 of the Act.

Above proposed amendment in section 148 shall come into force for any notice issued u/s 148 of the Act on or after 1st April, 2023 for any Assessment Year.

Proposed Amendment in time limit with regard to issue of notice u/s 148 and 148A. [Insertion of Proviso to Section 149 of the Act and Consequential Amendment to Section 151 of the Act]

It is observed that in cases where a search, requisition or survey proceeding was conducted after 15th March of a financial year, there is a time constraint to collect the information needed and issue a notice u/s 148 or a Notice u/s 148A of the Act.

In order to overcome above time constraint, amendments are proposed in cases where;

a) a search is initiated u/s 132; or

b) a search u/s 132 for which the last of authorisations is executed; or

c) requisition is made u/s 132A,

after 15th March of the financial year in which the period to issue the notice u/s 148 of the Act expires: -

i) A period of **15 days** grace shall be given while computing the last date to issue a notice u/s 148 of the Act **AND**
ii) The above notice shall be deemed to have been issued as on 31st March of the year in which period of issue of notice u/s 148 of the Act expires.

Comparison of existing provision with proposed amendment is illustrated by way of a table as under: -

Particulars	**Existing Provision**	**Proposed Provision**
Date of Search	25th March, 2023	25th March, 2023
Information about escapement of income found during the course of search pertaining to	A.Y. 2019-20	A.Y. 2019-20
Quantum of escapement of income	Rs. 40,00,000/-	Rs. 40,00,000/-
Time Limit to issue notice u/s 148 for A.Y. 2019-20	31st March, 2023	**15th April, 2023**
Period available to issue above notice	**6 days**	**21 days**

Consequently, above grace period is proposed to be excluded while computing the period of three years to determine Specified Authority u/s 151 for sanction of issue of notice u/s 148 of the Act.

Above proposed amendments shall come into force from 1st April, 2023 onwards which means that it will be applicable to all search and seizure action taking place on or after 1st April, 2023.

Specified Authority for the purpose of Section 148 and 148A of the Act [Amendment to Section 151 of the Act]

Comparison of existing provision with proposed amendments relating to Specified Authority for the purpose of Section 148 and 148A as mentioned in Section 151 of the Act is tabulated as under: -

Particular	Current Prescribed Authority	Proposed Prescribed Authority
3 years have elapsed from the end of the relevant Assessment Year	Principal Chief Commissioner or Principal Director General or where above authorities are not there then, Chief commissioner or Director General	Principal Chief Commissioner or Principal Director General or ~~where above authorities are not there then~~, Chief commissioner or Director General

Above proposed amendment shall come into force from 1st April, 2023 onwards.

Extension of Time limit for completion of Assessment or Reassessment [Amendment to Section 153(1), 153(1A) and 153(6) of the Act]

At Present the Assessing Officer is required to serve a notice u/s 143(2) of the Act, for the purpose of making an Assessment, within 3 months from the end of Assessment Year. The whole process of Assessment is required to be completed within 9 months from the end of Assessment Year. Thus, Assessing Officer gets a period of only 6 months to complete the Assessment.

As a result, taxpayers may not be able to get enough time to explain themselves or provide evidence in their favour and Assessing Officer may pass an unjust Order in a haste which is un favorable to the Assessee.

Therefore, it is now proposed to provide a time limit of **12 months** from the end of the Assessment Year to pass an Assessment Order pertaining to A.Y. 2022-23 onwards.

At Present, incase an Updated Return is filed u/s 139(8A) of the Act which has travelled either to the Commissioner in pursuant to section 263 or 264 or ITAT and the Commissioner or ITAT has directed the Assessing authority to pass a fresh Assessment Order, no time limit is prescribed to pass such fresh Assessment Order.

It is accordingly proposed that even for Updated Return filed u/s 139(8A) the time limit to pass a fresh Assessment Order in pursuant to Order u/s 254, 263 or 264 shall also be within 9 months from end of the financial year in which the said Order is received by the Principal CCIT, CCIT, PCIT, CIT.

Comparison of existing provision with proposed amendment relating to the time period available to the Assessing Officer for completion of Assessment u/s 143 is tabulated as under;-

Assessment Year	Return filed u/s	Date of furnishing Return in case of Updated Return u/s 139(8A)	Time limit under			
			Existing Provision up to A.Y. 2022-23		Proposed Amendment A.Y. 2023-24 onwards	
			to issue Notice u/s 143(2) for Scrutiny	to Pass Order u/s 143(3) or 144	to issue Notice u/s 143(2) for Scrutiny	to Pass Order u/s 143(3) or 144
A.Y. 2022-23	139(1) & 139(5)	N.A.	30-06-2023	31-12-2023	N.A.	N.A.
A.Y. 2020-21 to A.Y. 2022-23	139(8A) Updated Return	25-03-2023	30-06-2023	31-12-2023	N.A.	N.A.
A.Y. 2023-24	139(1) & 139(5)	N.A.	N.A.	N.A.	30-06-2024	31-03-2025
A.Y. 2023-24	139(8A) Updated Return	25-03-2024	N.A.	N.A.	30-06-2024	31-03-2025

Above proposed amendment to 153 of the Act shall come into force from 1st April, 2023 and will accordingly apply to A.Y. 2023-24 onwards.

Currently time limit for passing an order u/s 143 (i.e. scrutiny), 144 (i.e. best judgement assessment) or 147 (i.e. income escaping assessment) as given in Section 153(1) and 153(2) of the Act does not apply in the following cases where specific time limits have been prescribed as given below:-

i) Any assessment, reassessment or recomputation made on the Assessee or any person in consequence of or to give effect to any finding or on direction given in any order by the authorities stated in Section 153(6) of the Act, shall be completed within 12 months from the end of the month in which such order was received or passed by PCIT or CIT.

ii) Any assessment made on a partner of the firm in consequence of an assessment made on the firm under section 147 of the Act, shall be completed within twelve months from the end of the month in which the assessment order in the case of the firm is passed.

The above non-applicability of general time limit as is mentioned above is proposed to be extended in case of an Updated Return filed u/s 139(8A) of the Act in the same manner. In other words, specific time limit in respect of specific cases as referred in (i) and (ii) above shall also apply in case the return is filed u/s 1398(A) of the Act.

Above proposed amendment in section 153 shall come into force from 1st April, 2023 and will accordingly apply from A.Y. 2023-2024 onwards.

Extension for completing an ongoing Assessment / Reassessment in case of Search or Requisition: - [Insertion of section 153(3A) & amendment to section 153(4) of the Act]

At Present, in case any Assessment proceeding is pending with an Assessing Officer, and a search is initiated u/s 132 of the Act or books of account, other documents or any assets are requisitioned u/s 132A of the Act, certain evidence may be found that have a bearing on the pending Assessment proceeding. However, the evidence may not be effectively used by the Assessing Officer due to limitations under the current provisions of Assessment proceedings.

In order to allow the Assessing Officer to effectively use the evidence found during the search or requisition, or to carry out further investigation to gather evidence to correctly compute the Income of the Assessee, there is a need to amend the provisions of the Act to allow the Assessing Officer to conduct proper scrutiny proceeding based on the evidence gathered and accordingly amendment to existing law are necessary.

It is therefore proposed to extend the period available for completion of any Assessment or Reassessment, pending on the date of initiation of search u/s 132 or making of requisition by **12months** from the general limitation period for the following Assessee: -

a) In case of the assessee, where a search is initiated u/s 132 or such requisition is made u/s 132A or

b) In case of the assessee, to whom any money, bullion, jewelry or other valuable article or thing seized or requisitioned belongs to or

c) In the case of the assessee, to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to

In the above-mentioned cases, if the Assessee has also entered into International transactions or specified domestic transactions, and Assessing Officer considers it necessary to refer the computation of Arm's length price to the Transfer Pricing Officer, the period for completion of Assessment or Reassessment is proposed to be extended by **further 12 months**, thereby aggregate extension after giving effect of section 153(3A) and 153(4) shall be **24 months** from the general limitation period.

Above proposed amendment in section 153 shall come into force from 1st April, 2023 and will accordingly apply from A.Y. 2023-2024 onwards.

Proposed amendments relating to Rectification of Mistake as other Amendments [Insertion of Section 155(19) & (20) of the Act and Consequential Amendment to Section 154 of the Act]

Proposed relief to sugar co-operative factories in relation to pending demands and litigations

Sugar co-operative factories are paying to sugarcane growers a price which is higher than the minimum amount fixed by the Central Government (i.e. Statutory Minimum Price -SMP). Such higher amount paid is decided on the basis of their factory's working results considering all the revenues and expenditure incurred by their factory. The amount paid over and above SMP was considered appropriation/ distribution of profit and hence not allowable as an expenditure.

However, in most cases a state advised price was approved by the respective State Government. The said price was higher than the price fixed by Central Government (i.e. SMP) and therefore there were disputes about disallowance of any amount paid which was higher than the price fixed by Central Government (i.e. SMP) up to the price approved by the State Government.

To resolve such disputes an amendment was introduced through the Finance Act 2015 stating that the amount paid for purchase of sugarcane by the co-operative societies at a price which is equal to or less than the price fixed by the Central Government or approved by the State Government as the case may be, is to be allowed as deduction from A.Y. 2016-17.

However, there were pending demands and litigations in respect of Assessment Years prior to A.Y. 2016-17 as the above amendment of Finance Act 2015 was not applicable to Assessment Years prior to A.Y. 2016-17.

Based on representations made by sugar co-operative societies, it is now proposed that the Assessing Officer shall (on application made by the Assessee to allow such excess

amount up to amount approved by the State Government) allow such excess amount by amending the order u/s 155 of the Act where such excess amount was earlier disallowed wholly or partly by the Assessing Officer. Accordingly, Assessing Officer will re-compute the total income of such assessee for that previous year.

Comparison of existing provision with proposed amendment on the said issue is illustrated as under: -

Let's assume a co-operative factory had paid a final price of Rs. 3,000/- per tonne of sugarcane to sugarcane growers out of which Rs. 2,200/- (i.e. SMP) is fixed by the Central Government. Price in that particular state for 1 tonne of sugarcane approved by the State Government is Rs. 2,500/-.

Litigation/ Demand pending for AYs	**Existing provisions**		**Proposed Amendment**		
	Exp Allowed	**Exp Disallowed**	**Exp already Allowed**	**Exp further Allowed***	**Exp Disallowed**
Prior to A.Y. 2016-17	2,200	800	2,200	300	500

*on the basis of an application made by Assessee where such amount has been disallowed wholly or partly in any previous year commencing on or before the 1st day of April, 2014.

Consequentially, u/s 154 of the Act, it is proposed to calculate the period of four years for passing an order of rectification relating to the above amendment commencing from 31st March, 2023. This means that the order u/s 155 of the Act can be passed for all the cases prior to A.Y. 2015-16 till 31st March 2027.

Above proposed amendment shall come into force from the 1st day of April, 2023 onwards.

Proposed relief to Assessee in case where TDS was deducted and paid in an Assessment Year subsequent to the Assessment Year in which income was declared

At Present, there is a practical difficulty arising in case where a Return of Income is filed by an Assessee for Year 1 and TDS corresponding to the said income so declared is also claimed in Year 1, but deductor has deducted and paid such TDS in a subsequent year.

As per rule 37BA of Income Tax Rules, 1962 TDS has to be allowed in the year in which corresponding income is declared. However, practically it is not easy for an Assessee to get the TDS credit in Year 1 as corresponding TDS credit is reflected in his 26AS in Year 2.

In order to remove the hardship caused to the Assessee for claiming such TDS credit, it is now proposed that an Assessing Officer shall, on an application made by the Assessee, amend the order of assessment or any intimation allowing credit of such TDS in Year 1 i.e. in which the said income was declared.

Salient features of the proposed amendment are explained below:-

a) Assessee will have to make an application in the prescribed form before the Assessing Officer giving details of Assessment Year in which the income is declared, nature of income, amount of income, details of deductor including his PAN and TAN and details of TDS reflected in Form 26AS in subsequent year for the said income declared.
b) The said application has to be made within a period of two years from the end of the financial year in which such TDS was deducted at source.
c) Assessing Officer shall amend the order of assessment or any intimation allowing credit of such tax deducted at source in the Assessment Year for which Return of Income declaring the said income was filed.

d) Credit of such tax deducted at source shall not be allowed in any other Assessment Year. It shall be allowed only in the Assessment Year for which the Return of Income declaring the said income has been filed by the Assessee.

e) Time limit to pass such order granting such TDS credit shall be reckoned within 4 years from the end of the financial year in which such tax has been deducted.

The time period available to the Assessee for making such an application is illustrated by way of a table as under: -

Assessment Year in which Return of Income u/s 139 is filed and income is offered for taxation	**Financial Year in which TDS relating to such income is deducted and paid**	**Time period with the Assessee for making an application for credit of such TDS**
A.Y. 2020-21	F.Y. 2020-21 i.e. A.Y. 2021-22	Cannot be done
A.Y. 2021-22	F.Y. 2021-22 i.e. A.Y. 2022-23	1st October 2023 to 31st March 2024
A.Y. 2022-23	F.Y. 2022-23 i.e. A.Y. 2023-24	1st October 2023 to 31st March 2025
A.Y. 2022-23	F.Y. 2023-24 i.e. A.Y. 2024-25	up to 31st March 2026
A.Y. 2022-23	F.Y. 2024-25 i.e. A.Y. 2025-26	up to 31st March 2026

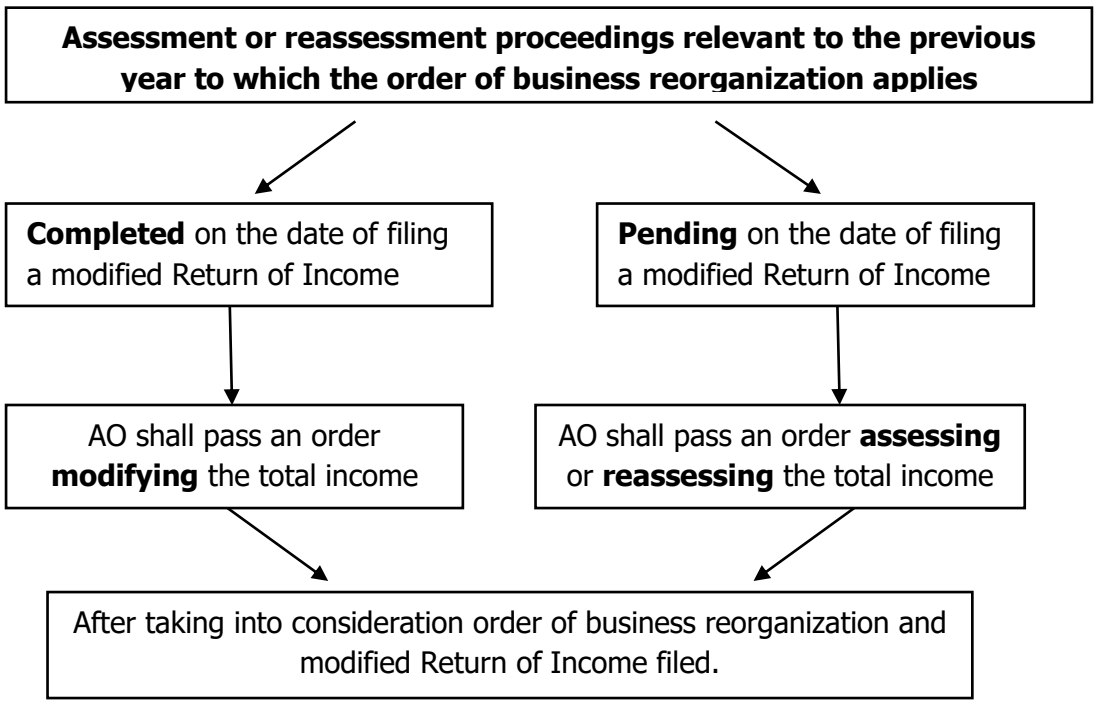
Proposed amendment shall come into force from the 1st day of October, 2023 onwards.

Procedure to be followed by Assessing Officer in case of business reorganisation [Amendment in Section 170A of the Act]: -

At Present, in case of business reorganization such as amalgamation or demerger, an application is made before the Hight Court for approval of such scheme. Generally, the High Court takes time to approve the scheme proposed for amalgamation or demerger. Pending approval of the order of the High Court, Successor entity may have filed their Return of Income which was due to be filed as per law. Once the High Court order is received, Section 170A of the Act states that a modified Return of Income is required to be filed in accordance with the directions contained in the High Court order within a period of 6 months from the end of the month in which the said order is issued.

At Present, there is no provision of how Assessment of such modified Return of Income is to be carried out by the Assessing Officer. Accordingly, it is proposed to prescribe procedure of Assessment in case of business reorganization where a modified Return of Income is filed.

Salient features of the new procedure are explained in the flowchart below: -



Above proposed amendment shall come into force from A.Y. 2023-24 onwards.

TDS on payment of accumulated balance in Employee's Provident Fund A/c [Amendment in Section 192A of the Act]

At present, TDS is required to be deducted by Trustee of Employees Provident Fund Scheme, 1951 at the time of making payment of accumulated balance due to employees who are participating in the recognised provident fund but have not completed a continuous service of 5 years with one or more employer. The TDS rate applicable is 10% (provided if amount is Rs. 50,000 or more) in case employee has furnished his PAN or Maximum Marginal Rate (i.e. 42.744%) in case employee has not furnished his PAN.

Practical difficulty has arisen in case of certain low paid employees who do not have a PAN and are retiring before completion of 5 year of service. Such class of employee is liable to TDS @ 42.744% which is causing genuine hardship to them as they may not be actually liable to Income Tax @ 42.744%.

It is accordingly proposed to delete 2nd proviso to section 192A of the Act containing provision of TDS at Maximum Marginal Rate in case of non-availability of PAN of any employee.

The consequence of proposed amendment shall be that in case employee has a PAN then rate of TDS shall be 10% as contained in first proviso to section 192A of the Act and **if any employee does not have PAN then the provision of section 206AA shall automatically get triggered and the rate of TDS applicable to such class of employee shall be 20%**.

Above amendment shall come into force from AY 2023-2024 onwards.

TDS on Interest on Securities [Amendment in Section 193 of the Act]

Some of the salient features of the existing provision of section 193 dealing with TDS on interest on securities are mentioned below: -

a) Deductor – Person responsible for paying such income.

b) Deductee – Any resident person.

c) Threshold limit – No limit

d) TDS rate applicable – 10%

Comparison of existing provision with proposed amendment is tabulated as under:-

Existing provision	**Proposed amendment**
Clause (ix) of the proviso to section 193 – No TDS is required to be deducted on interest on securities which are issued in dematerialised form (i.e. electronic form) by listed companies.	This clause is proposed to be omitted **(Due to the above omission TDS shall be applicable at the rate of 10% on interest payable on securities of a listed company issued in a dematerialised form in India.)**

e) Certain examples of listed interest-bearing securities are as follow: -

- NHAI Bond (National Highways Authority of India)
- NHBTF2014 Bond (National Housing Bank)
- TCFSL Bond (Tata Capital Financial Services Limited)
- IRFC Bond (Indian Railway Finance Corporation Limited)
- Perpetual Bond, etc.

Above proposed amendment shall come into force from AY 2023-2024 onwards.

Winnings from Lottery or Crossword Puzzle, etc. & Winnings from Horse Race [Amendment in Section 194B & 194BB of the Act]

Comparison of existing provision with proposed amendment u/s 194B is tabulated as under:-

Particular	Existing Provision	Proposed Amendment
Nature of Income	Winnings from – Lottery or Crossword puzzle or Card game and Other games of any sort.	"Winnings from lottery or crossword puzzle. **etc.**". **Provision u/s 194B** of the Act to include "**gambling or betting of any form or nature whatsoever"** (Proposed amendment to section 194B of the Act is intended to cover all types of income which are similar to lottery, crossword, card games, betting or gambling of any form or nature whatsoever & other games.)
Deductor	Person responsible for paying such income.	No Amendment
Deductee	Any person	No Amendment
TDS rate applicable	1. Resident - 30% 2. Non-resident - 30% (+) surcharge (only if payment > 50 lakh) (+) health & education cess.	No Amendment
Threshold Limit	Threshold limit > Rs. 10,000/- per payment.	Aggregate of amount > Rs. 10,000/- in a Financial Year **(~~per payment~~)**
Winnings from online	Winning from online games was taxed u/s 194B of the Act.	Net Winnings from online games is proposed to be taxed u/s 194BA of

Particular	Existing Provision	Proposed Amendment
games		the Act. The proposed amendment is to be inserted via second proviso to section 194B of the Act. **Said proviso shall be inserted with effect from 1st July, 2023 onwards.**

Comparison of existing provision with proposed amendment u/s 194BB is tabulated as under: -

Particular	Existing Provision	Proposed Amendment
Nature of Income	Winnings from Horse Races.	No Amendment
Deductor	Book maker (i.e. bookie) or Person holding license for betting / wagering / horse race.	No Amendment
Deductee	Any person	No Amendment
TDS rate applicable	1. Resident - 30% 2. Non-resident - 30% (+) surcharge (only if payment > 50 lakh) (+) health & education cess.	No Amendment
Threshold Limit	Threshold limit > Rs. 10,000/- per payment.	Aggregate of amount > Rs. 10,000/- in a Financial Year. **(~~per payment~~)**

Reason – It is observed that the deductor is avoiding TDS u/s 194B & 194BB of the Act by splitting the winning amounts into multiple transactions such that threshold limit of Rs. 10,000/- does not get exceeded for each transaction. To avoid this threshold limit has been changed from "per payment" to "aggregate payment".

Above proposed amendment shall come into force from AY 2023-2024 onwards.

TDS on Cash Withdrawal from Bank account [Amendment in Section 194N of the Act]

At present, there is a TDS on cash withdrawal from bank account u/s 194N of the Act.

Salient features of the existing provisions are explained in the following table: -

Deductor	**Banking company / Co-operative Bank / Post Office who are maintaining account of different Assessee.**		
Threshold limit & Applicable TDS rate	**Payee**	**Threshold limit**	**TDS rate applicable**
	If the payee has **not filed** Income Tax Return for **immediately preceding 3 years.**	> Rs. 20,00,000 upto Rs. 1 crore	2%
		> Rs. 1 crore	5%
	Any other payee	> Rs. 1 crore	2%

Comparison of existing provision & proposed amendment with regard to TDS provision u/s 194N **applicable to a Co-operative society** are explained in the table below: -

Particular	**Existing Provision**	**Proposed Amendment**
Threshold Limit	Rs. 1 crores.	Rs. 3 Crores.
TDS Rate	2%	2%

Above proposed amendment shall come into force from AY 2023-24 onwards.

Sunset on concessional rate of TDS of 5% for Interest covered u/s 194LC & 194LD of the Act: -

At present, concessional rate of TDS @ 5% on following categories of interest income is applicable upto 1st July 2023.

a) Interest paid by an Indian Company or a Business Trust to non-resident or foreign company in respect of Borrowings made by them in foreign currency, in form of Foreign currency loan or different types of bonds if such borrowing is made upto 1st July 2023.
b) Interest payable to Foreign Institutional Investors and Qualified Foreign Investors on government securities and rupee denominated corporate bonds.

For both the above existing provisions, the deadline is set for availing concessional rate of TDS of 5% only upto 1st July 2023.

The said sunset which is expiring on 1st July 2023 has not been extended in the current budget which means that both the above categories of interest will now be liable to Tax @ 20% instead of 5% once the deadline of 1st July 2023 is over.

It may be noted that the TDS Rate on Income of the nature specified u/s 194LC is already proposed to be enhanced from 5% to 20% in Part II (Rates of TDS) of the First Schedule annexed to the Finance Bill, 2023.

It is expected that the similar amendment shall also be made in TDS Rate u/s 194LD before the budget is passed in the Parliament.

With this amendment the Capital Raising debt from abroad will become expensive for Indian entities as the Foreign Entities would pass on the extra burden of Tax by increasing the Interest Rate.

Above proposed amendment shall come into force from 1st July, 2023 onwards.

TDS on income in respect of units of non-residents [Amendment in Section 196A of the Act]

Section 196A of the Act provides for TDS on payment of certain income to a non-resident (not being a company) or to a foreign company, at the rate of 20%. The income is in respect of units of a Mutual Fund specified under clause (23D) of section 10 of the Act or from the specified company referred to in the Explanation to clause (35) of section 10 of the Act.

Representations have been received requesting that the benefit of tax treaty may be considered at the time of TDS so that if the treaty provides a rate lower than 20%, TDS is made at that lower rate.

In order to provide the relief requested by taxpayers, it is proposed to insert a proviso to sub-section (1) of section 196A of the Act. This proviso seeks to provide that the **TDS would be at the rate which is lower of the rate of 20% and the rate or rates provided in agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A of the Act**, provided that the payee to whom such agreement applies has furnished the tax residency certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A of the Act.

Above proposed amendment shall come into force from AY 2023-2024 onwards.

Certificate for deduction at lower rate: - [Amendment to Section 197 of the Act]:-

At present section 197 provides that in case any deductee claims that the income tax chargeable on the income received by him from any source as prescribed in sections 192, 193, 194, 194A, 194C, 194D, 194G,194H, 194-I, 194J, 194K, 194LA, 194LBB, 194LBC, 194M, 194-O and 195 of the Act is lower than TDS rate applicable to the respective income than he can make an application for deduction of tax at a lower rate to the department seeking a certificate for lower deduction of tax in favour of the consent Deductor.

At Present, above provisions governing certificate for TDS at lower rate to be obtained from Department is not applicable in case of TDS on income from the units of business trust governed by section 194LBA in which business trust is required to deduct TDS u/s 194LBA for income distributed to unit holders @5% or 10% as the case maybe.

It is now proposed to include TDS on the income distributed to unit holders u/s 194LBA for which the certificate of lower deduction of tax can be obtained by the recipient of income.

Above proposed amendments shall come into force from A.Y.2023-2024 onwards.

Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns: - [Amendment in Section 206AB and Section 206CCA of the Act]

At present **Section 206AB** provides higher TDS applicable for income received by assessee which are non-filers of Return of Incomes, Similarly, **Section 206CCA** provides for higher TCS applicable for assessee who are non-filers of Return of Income.

There may be certain persons who are not required to furnish the Return of Income. It is not the intention of the legislature to include such persons in the category of non-filers.

Hence, in order to provide relief in such cases, it is now proposed to amend the definition of the "specified person" in sections 206AB and 206CCA of the Act so as to exclude a person who is not required to furnish the Return of Income for the assessment year relevant to the said previous year and who is notified by the Central Government in the Official Gazette in this behalf.

Above proposed amendments shall come into force from A.Y.2023-2024 onwards.

Amendment in Section 206C(1G) of the Act, governing TCS Rate for different types of Foreign Remittance:

Comparison of Existing amendment of Section 206C(1G) with Proposed provision are tabulated as under:

Sr. No.	Category of transaction	TCS to be collected by	TCS to be collected from	Existing			Proposed		
				Rate*		Threshold	Rate*		Threshold
				PAN	W/O PAN		PAN	W/O PAN	
(i)	For the purpose of any education, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E.	Banker or Other Foreign Currency Dealers	Any person making remittance (Buyer)	0.5%	5%	The aggregate of the amounts in excess of Rs.7 lakh.	No change.		
(ii)	For the purpose of education, other than (i) or for the purpose of medical treatment.	Banker or Other Foreign Currency Dealers	Any person making remittance (Buyer)	5%	10%	The aggregate of the Amounts in excess of Rs.7 lakh.	No change.		

Sr. No.	Category of transaction	TCS to be collected by	TCS to be collected from	Existing			Proposed		
				Rate*		Threshold	Rate*		Threshold
				PAN	W/O PAN		PAN	W/O PAN	
(iii)	Overseas tour package	Seller of such package	Buyer of such package	5%	10%	without any Threshold limit.	20%	40%	Without any threshold Limit.
(iv)	Any other case			5%	10%	The aggregate of the Amounts in excess of Rs.7 lakh.	20%	40%	Without any threshold Limit.

*In the above table, Present rate and proposed rate of TCS are on the amount or the aggregate of the amounts being remitted by buyer in a Financial Year.

Above proposed amendments will come into force from 1st July, 2023 onwards.

Set off and withholding of refunds in certain cases: - [Amendment to Section 241A and Section 245]

At present Section 245 provides that adjustment of refund due to the assessee with any demand payable under the Act of the same assessee after giving intimation in writing for the proposed action of adjustment. Similarly, at present Section 241A provides power to withhold refund in case refund is determined u/s 143(1) of the Act if the following conditions are satisfied:

a) Notice u/s 143(2) is issued to the said assessee for the same A.Y.;
b) The assessing officer is satisfied that grant of refund is likely to adversely affect the revenue;
c) The assessing officer has to record the reasons in writing and seek the previous approval of the Principal Commissioner or the Commissioner for withholding the refund up to the date on which assessment is completed.

Since the provisions of section 245 and 241A are interconnected and related to each other legislature has thought it prudent to consolidate both the provisions in Section 245 of the Act. Accordingly, it is now proposed to consolidate provisions of both the Section into proposed Section 245 and accordingly it is proposed to delete the provisions of Section 241A with effect from AY 2023-24

It is also Proposed No additional interest u/s 244A (1A) will be allowed on account of delayed refund due to withholding the refund u/s 245(2) of the Act.

Above proposed amendments shall come into force from A.Y.2023-2024 onwards.

Introduction of the Authority of Joint Commissioner (Appeals)

As per the current scheme for appeals under the Act, First appellate authority for an assessee aggrieved by any order is the Commissioner (Appeals).

In order to clear out of pendency of huge number of appeals, a new authority for appeals is proposed to be introduced at **Joint Commissioner** level to handle certain cases of disputed cases.

Such authority has all powers, responsibilities and accountability similar to that of Commissioner (Appeals) with respect to the procedure in appeals.

Following are the proposed amendments where several powers are extended to Joint Commissioner (Appeal):

Sr. No	Sections	Powers	Reference
1	131	Power regarding discovery, production of evidence.	CIT(A) having the said powers as vested in a court under the Code of Civil Procedure, 1908 are proposed to be extended to JCIT(A)
2	133	Power to call for information	The said power of AO, DCIT(A), JCIT & CIT(A) is proposed to be extended to JCIT(A)
3	134	Power to inspect members register, debenture holders register or mortgagees register of any company	The said power of AO, DCIT(A), JCIT & CIT(A) is proposed to be extended to JCIT(A)
4	154	Power to rectify the mistake in order, intimation u/s 143(1), 200A (1) & 206CB (1)	The said power of CIT(A) is proposed to be extended to JCIT(A)

Sr. No	Sections	Powers	Reference
5	177	Power to impose penalty in case of association dissolved or business discontinued and such AOP was found guilty of any of the acts specified	The said power of AO or the CIT(A) is proposed to be extended to JCIT(A)
6	189	Power to impose penalty in case of firm dissolved or business discontinued and was found guilty of any of the specified acts	The said power of AO or the CIT(A) is proposed to be extended to JCIT(A)
7	249(1)	Power to verify an appeal filed on or after 1st April 2023 irrespective of the date of initiation	The said power of CIT(A) is proposed to be extended to JCIT(A)
	249(3)	Power to admit an appeal after the expiry only on a sufficient cause	
	249(4)	Power to admit an appeal where advance tax was paid although no return is filed	
8	250	Powers regarding procedure in an appeal	The said power of CIT(A) is proposed to be extended to JCIT(A)
9	251(1A)	Powers regarding disposing of an appeal	251(1A) is proposed to be inserted for the first time to define powers of JCIT(A) on the same line as powers of CIT(A) governed by section 251(1A)

Sr. No	Sections	Powers	Reference
10	267	Power to pass an order authorising AO to amend the assessment or make a fresh assessment on any member of BOI or AOP	The said power of CIT(A), the Appellate Tribunal is proposed to be extended to JCIT(A)
11	270A	Power to direct any person who has under-reported his income, to pay penalty in addition to tax on the under-reported income	The said power of AO, CIT(A), Principal Commissioner & Commissioner is proposed to be extended to JCIT(A)
12	271	Power to impose penalty in case of failure to furnish returns, comply with notices, concealment of income	The said power of AO or the CIT(A) or the Principal Commissioner or Commissioner is proposed to be extended to JCIT(A)
13	271A	Power to impose penalty in case of failure to keep, maintain or retain books of accounts, documents	The said power of CIT(A) to charge penalty is proposed to be extended to JCIT(A)
14	271AAC	Power to impose penalty where the income determined includes unexplained income uls 68 to 69D	The said power of CIT(A) is proposed to be extended to JCIT(A)
15	271AAD	Power to impose penalty in case of false or omission of entry to evade tax liability during any proceedings in the Act	The said power of AO, CIT(A) is proposed to be extended to JCIT(A)
16	271J	Power to direct accountant or merchant banker or registered valuer to pay penalty if incorrect information furnished in any report or certificate during any proceedings in the Act	The said power of AO, CIT(A) is proposed to be extended to JCIT(A)

Sr. No	Sections	Powers	Reference
17	279(1)	Power to sanction/ issue directions for prosecution	The said power of CIT(A) is proposed to be extended to JCIT(A)
18	295(ii)(mm)	Power to allow to produce an evidence which appellant did not / was not allowed to produce before AO	The said power of CIT(A) is proposed to be extended to JCIT(A)

Apart from the above amendments, there are certain definitions and sections where Joint Commissioner (Appeal) is proposed to be appended along with Commissioner (Appeal), listed as below:

Sr No	Sections	Particulars	Reference
1	2(28CA)	Joint Commissioner (Appeals) means a person appointed to be a Joint Commissioner of Income tax (Appeals) or an Additional Commissioner of Income tax (Appeals)	Section 2(28CA) is inserted to include JCIT(A) in Appellate Authority
2	116	Classes of Income Tax Authority for the purpose of this Act	JCIT(A) is proposed to be a part of classes of Income Tax Authority
3	119	Issue of Orders, instructions and directions to other income- tax authorities for proper administration of the Act.	No such orders, instructions or directions shall be issued so as to interfere with the discretion of JCIT(A) or CIT(A) is proposed to be appended
4	158A & 158AB	Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.	The said power of CIT(A) is proposed to be extended to JCIT(A)

Sr No	Sections	Particulars	Reference
5	253(2)	Objection of order passed by CIT(A) or JCIT(A)	The Principal Commissioner or Commissioner may, if he objects to any order passed by CIT(A) or JCIT(A), direct AO to appeal to Appellate Tribunal against the order.
6	264	An order cannot be revised if an appeal is filed before CIT(A) or ITAT	It is proposed that such order cannot be revised even if an appeal is filed before JCIT(A)
7	275	At present, the said section prescribes the limitation period for imposing penalty in case appeal orders are disposed off by CIT(A)	It is proposed that such limitation period of imposing penalty also applies on receipt of JCIT(A) order
8	287	Publication in relation to any penalty imposed shall not be made unless time for presenting an appeal has expired	Such appeal should be made to CIT(A) which is now proposed to be extended to JCIT(A)

Above proposed amendment shall come into force from 1st April, 2023 onwards i.e. Appeals filed on or after 1st April, 2023.

Consequential amendment in Section 246 of the Act

As per the current scheme for appeals under Act, the first appellate authority for an assessee aggrieved by any order issued under the Act is the CIT(A). It has been noted that as the first authority for appeal, CIT(A) are currently overburdened due to the huge number of appeals and the pendency being carried forward every year.

In order to clear this bottleneck, a new authority for appeals is being proposed to be created at JCIT level to handle certain class of cases involving small amount of disputed demand. Such authority has all powers, responsibilities and accountability similar to that of CIT(A) with respect to the procedure for disposal of appeals.

Earlier section 246 was providing for the appeal functions of DCIT(A). That appellate authority was discontinued in the year 2000. Accordingly, it is proposed to substitute old section 246 with new Section 246 of the Act to provide for appeals to be filed before JCIT(A).

Appealable Orders (passed by an AO below the rank of JCIT) proposed u/s 246(1) are: -

a) an order being an intimation under sub-section (1) of section 143, where the assessee objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

b) an order of assessment, reassessment or recomputation u/s 147;

c) an order being an intimation under sub-section (1) of section 200A;

d) an order u/s 201;

e) an order being an intimation under sub-section (6A) of section 206C;

f) an order under sub-section (1) of section 206CB;

g) an order imposing a penalty under Chapter XXI; and

h) an order u/s 154 or u/s 155 amending any of the orders mentioned in clauses (a) to (g) above

However, no appeal shall be filed before the JCIT(A) if an order referred to in this sub-section is passed by or with the prior approval of, an income-tax authority above the rank of DCIT. CBDT may specify that the provisions of this sub-section shall not apply to any case or any class of cases.

CBDT or an income-tax authority so authorised by CBDT in this regard, may transfer such appeal and any matter arising out of or connected with such appeal and which is so pending with CIT(A), to the JCIT(A) who may proceed with such appeal or matter, from the stage at which it was before, it was so transferred and vice-versa. Where an appeal is transferred, the appellant shall be given an opportunity of being reheard.

For the purposes of disposal of appeal by the JCIT(A), the Central Government may make a scheme, by notification in the Official Gazette, of Faceless Appeals with the JCIT(A).

It is also proposed to insert an Explanation in this section to define "status" to mean the category under which the assessee is assessed as "individual", "Hindu undivided family" and so on.

Note: - It is seen that there is no corresponding proposed amendment in provisions of Section 246A of the Act which deals with appeals to be filed before CIT(A). It is expected that the provisions of Section 246A will be amended so as to exclude the appeals which come under the purview of JCIT(A) u/s 246 as provisions of Section 246 which deals with appeals to be filed before JCIT(A) and Section 246A which deals with appeals to be filed before CIT(A) must be mutually exclusive, or there may be a Notification or Circular issued by CBDT wherein the appeals to be filed before JCIT(A) and appeals to be filed before CIT(A) will be specified.

Above proposed amendments shall come into force from 01st April, 2023 onwards, i.e., it will apply to all cases where appeal is filed on or after 01st April, 2023.

Consequential Amendment in Section 270AA of the Act due to introduction of new Appellate Authority I.e. Joint Commissioner (Appeals): - [Amendment in Section 270AA of the Act]

Section 270AA of the Act contains provision relating to Immunity from imposition of penalty.

As per Section 270AA (6) of the Act, if AO has granted Immunity from imposing Penalty, on satisfaction of the conditions mentioned under the said section, then

a) no Appeal can be filed before CIT(A); or

b) no Application for Revision u/s 264 can be made

Against the order of assessment u/s 143(3) or reassessment u/s 147 of the Act.

Since a new Appellate Authority I.e. Joint Commissioner (Appeals) is proposed to be introduced, Consequential Amendments are proposed in Section 270AA (6) of the Act.

It is proposed that **no Appeal can be filed before JCIT(A) against the order of assessment or reassessment u/s 143(3) and 147 of the Act respectively on the same line as that of CIT(A) in case application of immunity penalty is filed by assessee.**

This restriction is proposed to be added u/s 270AA (6) of the Act in addition to the two restrictions mentioned above.

Above proposed amendment shall come into force from 01st April, 2023 onwards.

Rationalization of Appeals to the Appellate Tribunal (ITAT): -[Amendment to Section 253 of the Act]

As per Section 253 of the Act, Assessee or AO can file Appeal before ITAT.

It is proposed to enhance the Scope of Appealable Orders before ITAT as under:

A. Appeals by Assessee: -

At present, Section 253(1) of the Act contains orders against which **aggrieved Assessee** can appeal before ITAT.

1. Enhancement in Scope of Appealable Orders before ITAT- Penalty Orders passed by CIT(A)

Sections 271AAB, 271AAC and 271AAD of the Act are penalty provisions under Chapter XXI of the Act for imposition of penalty. These Sections are summarized as under:

Section imposing Penalty	In which case?
271AAB	Penalty for additions to Total Income where search has been initiated under section 132 of the Act
271AAC	Penalty where income assessed includes any income referred to in section 68, 69, 69A, 69B, 69C or 69D of the Act for any previous year
271AAD	Penalty for false entry or an omission of any entry in the books of account maintained by any person

Finance Act, 2022 amended the above three sections **to enable CIT(A) also** to pass an order imposing penalty under the said sections. However, reference of the same is not included in Section 253(1) of the Act, and hence, at present, an aggrieved Assessee **cannot appeal against such penalty orders** passed by CIT(A) before ITAT.

Therefore, it is now proposed that appeal against penalty orders passed by CIT(A) u/s 271AAB, 271AAC and 271AAD **can be filed before ITAT by the aggrieved Assessee**.

2. Enhancement in Scope of Appealable Orders before ITAT- Orders passed by JCIT(A)

Since a new Appellate Authority i.e. JCIT(A) is proposed to be introduced, Consequential Amendments are proposed so as to provide for **Appeal by the aggrieved Assessee against order passed by JCIT(A) before ITAT**.

It is proposed that appeal against following Orders passed by JCIT(A) **can be filed before ITAT by the aggrieved Assessee**: -

Order passed u/s	Particulars
154	Order passed by JCIT(A) for Rectification of mistake
250	Order passed by JCIT(A) in all appeals before JCIT(A)
270A	Penalty for under-reporting and misreporting of income
271	Penalty for failure to furnish returns, comply with notices, concealment of income, etc.
271A	Penalty for failure to keep, maintain or retain books of account, documents, etc.
271AAC	Penalty where income assessed includes any income referred to in section 68, 69, 69A, 69B, 69C or 69D of the Act for any previous year
271AAD	Penalty for false entry or an omission of any entry in the books of account maintained by any person
271J	Penalty for furnishing incorrect information in reports or certificates

3. Enhancement in Scope of Appealable Orders before ITAT- Orders passed by PCCIT/CCIT/PDGIT/DGIT/PDIT/DIT u/s 263 or 154 of the Act

The Finance Act, 2021, amended Section 263 of the Act **to enable Principal Chief Commissioner (PCCIT) and Chief Commissioner (CCIT) also** to pass an order of revision under the said section.

However, no reference of such orders passed u/s 263 of the Act is made u/s 253(1) of the Act. Thus, **as per existing provisions**, Assessee aggrieved by any order under section 263 of the Act passed by PCCIT and CCIT or an order u/s 154 of the Act rectifying such order u/s 263 of the Act **cannot be appealed against before ITAT**.

Therefore, it is proposed that **appeal by the aggrieved Assessee against an order passed u/s 263 of the Act by PCCIT or CCIT or an order passed u/s 154** of the Act in respect of any such order **can be filed before ITAT**.

Comparison of existing provisions with proposed amendment is tabulated as under:

<table>
<tr><th rowspan="2">Order passed u/s</th><th rowspan="2">Authority passing Order</th><th colspan="2">Whether Appealable before ITAT?</th></tr>
<tr><th>As per existing Provisions u/s 253</th><th>As per Proposed Amendment u/s 253</th></tr>
<tr><td>263</td><td rowspan="2">Principal Chief Commissioner (PCCIT),
Chief Commissioner (CCIT),
Principal Director General (PDGIT),
Director General (DGIT),
Principal Director (PDIT),
Director (DIT)</td><td rowspan="2">No</td><td rowspan="2">Yes</td></tr>
<tr><td>154</td></tr>
</table>

B. Appeals by Assessing Officer: -

At present, Section 253(2) of the Act contains types of orders, against which **Assessing Officer** (on Direction of Principal Commissioner or Commissioner) can appeal to ITAT.

1. Enhancement in Scope of Appealable Orders before ITAT- Penalty Orders passed by JCIT(A)

Since a new Appellate Authority i.e. JCIT(A) is proposed to be introduced, Consequential Amendments are proposed so as to provide for Appeal **by the Assessing Officer** against order passed by JCIT(A) before ITAT.

It is now proposed that **the Assessing Officer** (on direction of Principal Commissioner or Commissioner) can file appeal before ITAT against the Orders passed by JCIT(A) u/s 154 or 250 of the Act.

Amendment to facilitate filing of memorandum of cross-objections

At present, Section 253(4) of the Act allows the respondent, in **an appeal against an order of CIT(A),** to file a memorandum of cross-objections before ITAT.

However, appeal can be made to ITAT against orders of authorities **other than CIT(A) also**, like Principal Commissioner or Commissioner or Principal Director or Director, JCIT(A).

As a result, the respondent, whether it is Revenue or the Assessee, **cannot file memorandum of cross-objections** against an appeal before ITAT except where Order appealed against is that of CIT(A).

In order to overcome the above, it is now proposed to amend section 253(4) of the Act to enable filing of memorandum of cross-objections by any Respondent **in all classes of orders** against which appeal can be filed before ITAT.

For example, where Assessee files appeal before ITAT against order passed by Assessing Officer in consequence of order of Dispute Resolution Panel, then the Assessing Officer will be able to file cross objection to such appeal, which cannot be filed presently.

Above proposed amendments shall come into force from 01st April, 2023 onwards, i.e. **it will apply to all cases where Appeal is filed before ITAT on or after 01st April, 2023**.

Modification of directions related to faceless schemes and e-proceedings: - [Amendment to Section 135A, 245MA, 245R, 250 and 274 of the Act]

Central Government has undertaken number of measures to make processes under the Act electronic by introducing faceless schemes and e-proceedings.

Central Government issued Directions for implementation of various faceless schemes and e-proceedings as per relevant provisions mentioned in Table below.

However, time limitations were incorporated into Act for issuing directions, with an intent to implement these reforms in a timely manner.

Section	Scheme	Existing Time Limit to issue Direction
135A	e-Verification Scheme, 2021	31.03.2022
245MA	e-Dispute Resolution Scheme, 2022	31.03.2023
245R	e-advance rulings Scheme, 2022	31.03.2023
250	Faceless Appeal Scheme, 2021	31.03.2022
274	Faceless Penalty Scheme, 2022	31.03.2022

Adjustments may be required in the directions issued to overcome any issues arising in implementation and to ensure that the schemes operate smoothly. However, as per the present provisions, **an express power to amend or modify the directions, at a later date, is not available**.

Therefore, it is proposed to amend the relevant provisions so that **Central Government can amend such directions, already issued,** by way of a notification.

Above proposed amendments shall come into force ***retrospectively*** from 01st April, 2022 for sections 135A, 250 and 274, and ***prospectively*** from 01st April, 2023 onwards for sections 245MA and 245R of the Act.

Decriminalization of Penal Provisions: - [Amendment to Section 276A of the Act]

Section 276A of the Act provides for prosecution for failure to comply with provisions of sub-section (1) and (3) of Section 178 of the Act.

It is proposed that **no Prosecution proceedings shall be initiated** under this Section w.e.f. 01st April, 2023 since Liquidator is already working under the oversight of the Insolvency and Bankruptcy Code, 2016 (IBC).

Comparison of existing provisions with proposed amendment is tabulated as under: -

<table>
<tr><th rowspan="2">Section</th><th rowspan="2">Provision</th><th colspan="2">Prosecution for violation?</th></tr>
<tr><th>As per Existing Provisions</th><th>As per Proposed Amendment</th></tr>
<tr><td>178(1)</td><td>Liquidator or Receiver shall give notice of his appointment as such to the Assessing Officer of the Company within 30 days of his appointment.</td><td rowspan="2">Punishable with rigorous imprisonment upto 2 years</td><td rowspan="2">No Prosecution</td></tr>
<tr><td>178(3)</td><td>(a) Liquidator or Receiver shall not part with any of the assets/ Properties of the company; and
(b) Set aside Amount as notified by Assessing Officer</td></tr>
</table>

Above proposed amendments shall come into force from 01st April, 2023 onwards.

Scope of Penalty widened in consequence to new provisions of TDS: - Amendment in Section 271C of the Act]

At present, Section 271C of the Act contains provisions for penalty for following defaults: -

a) Failure to deduct TDS, partly or wholly, under any of the Provisions of the Chapter XVII-B of the Act;

b) Failure to pay whole or any part of the tax as required: -

i. u/s 115O i.e. Dividend Distribution Tax

ii. under proviso to section 194B i.e. ensuring payment of tax on winnings from any lottery or crossword puzzle or card game and other game of any sort.

The Finance Act, 2022 introduced the **provisions for TDS or ensuring payment of tax** on following w.e.f. 01st July, 2022: -

- on providing any benefit or perquisite in Section 194R

- on consideration for transfer of Virtual Digital Assets in Section 194S

However, **there are no penal provisions** corresponding to the above tax payment provisions (i.e. 194R and 194S) yet legislated till date.

Also, a new Provision in Section 194BA is proposed to be introduced by the Finance Bill, 2023 prescribing the TDS provisions for payment of any income by way of Winning from any Online Games.

So, it is accordingly proposed **to widen the scope of penal provisions** contained in Section 271C of the Act by providing for Penalty for making default in payment of taxes u/s 194R, 194S and 194BA as explained above.

Also, at present, the provisions for penalty **do not clearly mandate a penalty** for a person who **fails to ensure that tax has been paid** in a situation where the Benefit / Perquisite / consideration for transfer of Virtual Digital Assets / Winnings are "**in kind**".

Therefore, it is also proposed **to include in the scope of penalty, the failure in ensuring payment of tax** in such cases.

The amount of penalty shall be **an amount equal to the amount of tax which a person failed to pay or ensure payment of the same**.

Comparison of existing provisions with proposed amendments are tabulated as under: -

<table>
<tr><th rowspan="2">Failure to pay or ensure payment of tax u/s</th><th colspan="2">Penalty</th></tr>
<tr><th>As per Existing Provision</th><th>As per Proposed Amendment</th></tr>
<tr><td>194R</td><td rowspan="2">Not covered</td><td rowspan="3">Sum equal to amount of tax which such person failed to pay or ensure payment of the same</td></tr>
<tr><td>194S</td></tr>
<tr><td>194BA
(proposed new Section)</td><td>Not applicable</td></tr>
</table>

<table>
<tr><th rowspan="2">Failure to ensure payment of tax u/s</th><th colspan="2">Penalty</th></tr>
<tr><th>As per Existing Provision</th><th>As per Proposed Amendment</th></tr>
<tr><td>194B</td><td>Not covered</td><td>Sum equal to amount of tax which such person failed to ensure payment</td></tr>
</table>

Above proposed amendments in penal provisions shall come into force from 01st April, 2023 onwards ***except*** for the penal provisions for Section 194BA which shall come into force from 01st July, 2023 onwards.

Scope of Prosecution widened in consequence to new provisions of TDS: - [Amendment in Section 276B of the Act]

At present, Section 276B of the Act contains provisions for prosecution for following defaults: -

a) Failure to pay TDS to the credit of Central Govt. under any of the Provisions of the Chapter XVII-B of the Act;

b) Failure to pay whole or any part of the tax as required: -
   i. u/s 115O i.e. Dividend Distribution Tax
   ii. under proviso to section 194B i.e. ensuring payment of tax on winnings from any lottery or crossword puzzle or card game and other game of any sort.

The Finance Act, 2022 introduced the **provisions for TDS or ensuring payment of tax** on following w.e.f. 01st July, 2022: -

- on providing any benefit or perquisite in Section 194R
- on consideration for transfer of Virtual Digital Assets in Section 194S

However, **there are no prosecution provisions** corresponding to the above tax payment provisions yet legislated till date.

Also, a new Provision in Section 194BA is proposed to be introduced by the Finance Bill, 2023 prescribing the TDS provisions for payment of any income by way of winning from any Online Games.

So, it is accordingly proposed **to widen the scope of prosecution provisions** contained in Section 276B of the Act by providing for Prosecution for making default in payment of taxes u/s 194R, 194S and 194BA of the Act as explained above.

Also, at present, the provisions of Section 276B **do not clearly provide for prosecution** of a person who **fails to ensure that tax has been paid** in a situation where the benefit / perquisite / consideration for transfer of Virtual Digital Assets / Winnings are "**in kind**".

Therefore, it is also proposed **to include in the scope of prosecution, the failure in ensuring payment of tax** in such cases.

Comparison of existing provisions with proposed amendments are tabulated as under: -

Failure to pay or ensure payment of tax u/s	**Prosecution**	
	As per Existing Provision	**As per Proposed Amendment**
194R	Not covered	Punishable with rigorous imprisonment for minimum 3 months but maximum upto 7 years **and** with fine
194S		
194BA (proposed new Section)	Not applicable	

Failure to ensure payment of tax u/s	**Prosecution**	
	As per Existing Provision	**As per Proposed Amendment**
194B	Not covered	Punishable with rigorous imprisonment for minimum 3 months but maximum upto 7 years **and** with fine

Above proposed amendments in prosecution provisions shall come into force from 01st April, 2023 onwards ***except*** for the prosecution provisions for Section 194BA which shall come into force from 01st July, 2023 onwards.

Increase in Cash Limit for loans/deposits accepted/repaid by/to PACS and PCARD: - [Amendment in Section 269SS and 269T of the Act]

At Present, Section 269SS of the Act provide that no person shall take loan or accept deposit from any person, otherwise than by account payee cheque, bank draft, electronic clearing system as RTGS/NEFT or wire transfer, in case the amount of loan or deposit taken together with aggregate amount outstanding on the date of taking such loan or deposit is Rs. 20,000/- or more.

At Present, Section 269T of the Act provide that no person shall repay loan or deposit to any person, otherwise than by account payee cheque, bank draft, electronic clearing system as RTGS/NEFT or wire transfer, in case the amount of repayment of loan or deposit together with aggregate amount outstanding on the date of repayment of such loan or deposit is Rs.20,000/- or more.

Primary Agricultural Credit Societies ("PACS") and Primary Co-Operative Agricultural and Rural Development Bank ("PCARD") provide credit facilities at the grass roots level predominantly for agricultural purposes and for people residing in rural areas.

To bring parity to PACS and PCARD for limits on cash transactions with banking companies and to provide relief to low-income groups and facilitate easier conduct of business, **limit of taking or accepting loan otherwise than by banking channel as contained to 269SS and limit of repaying loan otherwise than through banking channel as contained to 269T is proposed to be enhanced from Rs. 20,000/- to Rs. 2,00,000/-**

Above proposed amendment shall come into force from A.Y. 2023-24 onwards.

Penalty for furnishing inaccurate Statement of Financial Transaction or Reportable Account: - [Amendment in Section 271FAA of the Act]

At present, Section 285BA of the Act requires a person to furnish a statement in respect of specified financial transaction or reportable account to the prescribed income-tax authority.

Self-certifications by reportable persons and the account holders are mandated under the Rule 114H of the Income-tax Rules, 1962 for different purposes. This includes, inter alia, cases where new accounts are opened (to certify the country of tax residence), further information about tax residence in case of pre-existing accounts and cases of entities to certify whether they are Passive Non-Reporting Financial Entities.

While the requirement of having a valid self-certification has been specified in Rule 114H of the Income–tax Rules, 1962, however, **there is no penal provision for the submission of a false self-certification** which in turn leads to furnishing of an **incorrect statement** u/s 285BA. Therefore, there is a need to introduce a provision for penalizing false self-certification in the Act.

It is therefore, proposed to insert a new sub-section (2) in the said section, which shall provide that if there is any **inaccuracy in the statement of financial transactions** submitted by a prescribed reporting financial institution **and such inaccuracy is due to false or inaccurate information submitted by the account holder**, a **penalty of RS. 5,000/-** shall be **imposable on such institution**, in addition to the penalty leviable on such financial institution in the said section, if any.

This penalty shall be levied by the income tax authority prescribed under sub-section (1) of section 285BA of the Act.

Further, the **reporting financial institution may recover** the amount so paid on behalf of the account holder **or retain** out of any moneys that may be in its possession or may come to it **from every such reportable account holder**.

Above proposed amendment shall come into force from 01st April, 2023 onwards.

ABBREVIATIONS

Particulars	Abbreviations
Appellate Tribunal	ITAT
Assessing Officer	AO
Association of Persons	AOP
Body of Individuals	BOI
Central Board of Direct Taxes	CBDT
Chief Commissioner	CCIT
Commissioner	CIT
Commissioner (Appeals)	CIT(A)
Deputy Commissioner	DCIT
Deputy Commissioner (Appeals)	DCIT(A)
Director	DIT
Director General	DGIT
Income Tax Appellate Tribunal	ITAT
Primary Agricultural Credit Societies	PACS
Primary Co-Operative Agricultural and Rural Development Bank	PCARD
Principal Commissioner	PC
Principal Chief Commissioner	PCCIT
Principal Director	PDIT
Principal Director General	PDGIT
Joint Commissioner	JCIT
Joint Commissioner (Appeals)	JCIT(A)
Tax Deducted at Source	TDS
Micro, Small and Medium Enterprise Development Act	MSMED Act
Micro, Small and Medium Enterprise	MSME
Non-Banking Financial Company	NBFC
Joint Development Agreements	JDA
Electronic Gold Receipt	EGR
Market Linked Debentures	MLD
Floor Space Index	FSI
Transfer of Development Rights.	TDR

GOODS AND SERVICE TAX

Composition levy for registered persons supplying goods through Electronic Commerce Operators (ECO): - [Amendment to Section 10 of the CGST Act]

Existing Provision	At present, the registered person shall be eligible to opt for composition scheme (i.e. payment of tax at a lower rate), ***if he is not engaged in*** **making any supply of goods or services *through* Electronic Commerce Operator (ECO)**.
Proposed Amendment	It is proposed that the registered person shall be eligible to opt for composition scheme if he is not engaged in making ***any supply of services through ECO.*** **Therefore, now composition scheme will be available to registered person *supplying goods through ECO***.

Above proposed amendment shall be effective from a date to be notified.

Eligibility and Condition for taking Input Tax Credit: - [Amendment to Section 16(2) of the CGST Act]

Existing Provision	At present, if payment is not made by registered person to supplier within 180 days from the date of issue of invoice by the supplier, then ITC availed on said invoice by recipient shall ***be added to the output tax liability along with interest.*** Further, recipient shall be entitled to avail credit of input tax ***on payment made by him*** towards the value of supply of goods or services or both along with tax payable thereon.

Proposed Amendment	In the case of **India Carbon Ltd. v. State of Assam**, the Hon'ble Supreme court held that ***interest could not be levied until there is substantive provision in the Act for applicability of the same.*** Further, in the case of ***J.K. Synthetics Ltd. v. The Commercial Tax Officer, the Hon'ble S.C***. held that the provision of payment of interest must be construed as substantive law and not an adjectival law. ***It must be construed strictly and cannot be levied unless there is a specific provision for recovery of interest.*** To align the same with above Judgement of Hon'ble Supreme courts, it is proposed that where a recipient fails to pay to the supplier of goods or services within **180 days** from the date of issue of invoice by the supplier, then ITC reversal shall be done and also interest shall be payable **u/s 50.** Further, ITC reversal required due to non-payment to the supplier within the stipulated time ***may not be characterized as the output liability.*** Earlier, for re-availment of said ITC, there is a condition that recipient should **make payment** towards value of supply or goods or service along with tax. However, there is no condition that recipient should make payment **to supplier only**, who supply goods or services to them. It is now proposed that recipient shall be entitled to re-avail said ITC **only if said value of supply of goods or services along with tax has been paid to <u>same supplier</u>**.

Above proposed amendment shall be effective from a date to be notified**.**

Reversal of proportionate ITC: - [Amendment to Section 17(3) of the CGST Act]

Existing Provision	At present, there is a restriction on availment of ITC in case of Exempt supply of goods or services. It is a common trade practice whereby the importer files an into-bond bill of entry and stores the goods in a customs bonded warehouse and thereafter, supplies such goods to another person who then files an ex-bond bill of entry for clearing the said goods from the customs bonded warehouse for home consumption. ***(In-Bond sales of goods/sale of goods in a custom bonded warehouse)*** ***Presently, Exempt supply does not include above mentioned In-Bond sales of goods/sale of goods in a custom bonded warehouse supply.***
Proposed Amendment	It is proposed to ***include In-Bond sales of goods/sale of goods in a custom bonded warehouse, within the scope of "exempt supply" for the purpose of ITC restriction on said transaction.*** Therefore, said supply shall be considered as Exempt supply only for the purpose of reversal of proportionate ITC. However, this proposed amendment will not impact the Merchant Trading and High Sea sales transactions. In other words, there is no need of reversal of proportionate ITC in case of said transactions.

Above proposed amendment shall be effective retrospectively w.e.f 1st July 2017.

Disallowance of Input Tax Credit (ITC): - [Amendment to Section 17(5) of the CGST Act]

It is proposed to amend section 17(5) of CGST Act to block ITC in respect of goods or services or both received by taxable person which is used or intended to be used for **activities in relation to Corporate Social Responsibility (CSR)** as referred in sec.135 of the Companies Act, 2013. ***Thus, ITC with respect to CSR related expenses shall not be available***.

With this amendment of disallowing ITC on CSR expenditure, will bump up cost of CSR for Corporate Entities. The impact of this amendment shall be that the amount to be spent on CSR will be reduced, as GST component will become part of the CSR expenditure.

The same is explained by way of an example as under: -

Suppose, liability of CSR based on 2% of average net profit of last 3 years is Rs.2,00,000/-, then amount to be spent by the Corporate Entity is tabulated as under.

Particulars	**Existing Provision**	**Proposed Amendment**
Basic Value of CSR Contribution	2,00,000	1,70,000
Add - GST @ 18% on above	36,000	30,000
Total CSR Contribution	**2,36,000**	**2,00,000**
ITC claimed by the Corporate Entity	**36,000**	**NIL**
Amount Spent as CSR debited to P&L A/c of Corporate Entity	**2,00,000**	**2,00,000**

Based on proposed amendment, the aggregate amount eligible for CSR shall include GST Component as well, as GST Component becomes cost to the Corporate Entity.

From the above comparison, it can be seen that the ***amount spent for the "poor people" of the country will now reduce from Rs. 2, 00,000 to Rs. 1, 70,000*** Instead the said amount of Rs.30,000/- (i.e. Rs.2,00,000- Rs.1,70,000) will be going in the ***tax kitty of the Government***, as Government will not give credit of the ITC, which it is giving as on date.

In nutshell, the amount which was spent on "poor people" will now be transferred to Government.

Above proposed amendment shall be effective retrospectively w.e.f 1st July 2017.

Persons not liable for registration: - [Amendment to Section 23 the Act]

At present**,** Section 23 of the CGST Act, specifies the persons ***who are not require to be registered under GST Law***, whereas Section 24 of the CGST Act, specified persons ***who are mandatorily require to be registered under GST Law*****.** However, there was a confusion whether Section 23 of CGST Act will prevail over the 24 of the CGST Act.

It is proposed to amend Section 23 of CGST Act, 2017 to provide that it shall prevail over the Section 22(1) and Section 24 of CGST Act, 2017. Therefore, persons providing ***wholly exempt supplies or supplies which are not liable to tax are not required to register under GST Law,*** even if they are liable to register u/s 22(1) or 24 of the CGST Act.

At present, if a person is supplying services or goods which are wholly exempt supplies and receiving services on which he is liable to pay tax under Reverse charge, the said person was required to compulsorily register itself as per Section 24 of CGST Act.

But after the said amendment, Section 23 will prevail over Section 24 and said person will ***not be liable for compulsory registration even if he receives such supplies on which he is liable to pay GST under RCM.***

Above Proposed amendment shall be effective retrospectively w.e.f 1st July 2017.

Maximum Time Limit for filing Returns (GSTR1, GSTR3B, GSTR4/5/6/7, GSTR9/9C, GSTR8): - [Insertion of Section 37(5), 39(11) ,44(2) and 52(15) of the CGST Act]

Maximum time limit to ***file the delayed GST Returns/details/statements*** under various sections of CGST Act from the due date of furnishing the said GST Returns/details/statements is tabulated as under:-

Section	Particulars	Existing Provision	Proposed Amendment
37(5)	Details of outwards supplies in form of GSTR1	No Time Limit*	**3 years** from from the due date of filing of said GSTR1
39(11)	Return in form of GSTR3B, GSTR4, GSTR5, GSTR6 and GSTR7	No Time Limit*	**3 years** from the due date of furnishing said GSTR3B, GSTR4/5/6/7
44(2)	Annual Return (GSTR9)/Self-certified reconciliation statement (GSTR9C)	No Time limit	**3 years** from the due date of furnishing said annual return (GSTR 9) or GSTR9C
52(15)	Return for Tax Collected at Source (GSTR8)	No Time limit	**3 years** from the due date of furnishing said return (GSTR 8)

* *The current provisions of GSTR-1/GSTR-3B do not allow filing of returns, if any previous period GSTR-1/GSTR-3B return is not filed*.

Provided that the Government may on the recommendation of the Council, by notification, may allow a registered person to furnish the return/details/statement even after the expiry of the said period of 3 years from the due date of furnishing said return/details/statement.

The above proposed amendment shall benefit those recipients who have claimed ITC but is not allowed to them, since the same is not reflecting in their GSTR 2A/2B, due to non-filing of GSTR1 by its supplier. Now, the non – filer registered persons are given time to file their GST Returns within 3 years so that the ITC gets reflected in GSTR 2A/2B of recipient and recipient can claim the same.

Above proposed amendment shall be effective from a date to be notified.

Value of ITC to be excluded for final settlement of refund claims: -[Amendment to Section 54 of the CGST Act]

During the initial stage of GST implementation, there was concept of claiming ITC in GSTR ***on provisional basis***. Later on after amendment in GST provisions with respect to availment of ITC, registered person should claim ITC in its GSTR3B only on the ***basis of its GSTR2B/2A***. In other words, now there is no concept of claiming ITC on provisional basis under GST.

Further, as per Section 54(6) of CGST Act, in case of refund claim for zero rated supply by specified registered person, proper officer may grant provisional refund of amount equal to 90% of the total refund claimed ***(excluding ITC claimed on provisional basis by registered person),*** which means still there is concept of ***"provisional ITC"*** under refund provisions.

In order to align the above provisions, it is proposed to amend refund provisions to remove the reference ***of "provisionally accepted ITC"***. In other words, now provisional refund of 90% would be computed **on total ITC claimed by the supplier in its GSTR3B on the basis of its GSTR2B/2A.**

Above Proposed amendment shall be effective from a date to be notified.

Interest on delayed refund: - [Amendment to Section 56 of the CGST Act]

Existing Provision	At present, there is no rules prescribed for payment of interest on delayed refund to registered person, in case there is a delay in the refund amount to the registered person beyond 60 days period counted from the date of the receipt of the application.
Proposed Amendment	It is now proposed to amend section 56 of the CGST Act to provide payment of interest on delayed refund to registered person ***in such manner and conditions, which shall be prescribed.*** This enables Government to ***prescribe*** rules for computation of such interest and condition & restrictions for such interest.

Above proposed amendment shall be effective from a date to be notified.

Electronic Commerce Operators brought under the ambit of Penal Provision: - [Amendment to Section 122 of the CGST Act]

It is now proposed to amend section 122 of the CGST Act to ***extend the penal provision to*** **Electronic Commerce Operators (*ECO)*** in following cases:-

a) If the ECO **allows supply by an unregistered person** ***other than a person exempted from registration by a notification;***

b) If the ECO allows a supplier to make inter-state supply through it ***who is not eligible to make such inter-state supply;***

c) If the ECO **fails to furnish correct details in Form GSTR-8** with respect to outward supply of goods effected through it ***by a person exempted from obtaining registration under this Act.***

The aforesaid amendment is in line with the globally followed trends wherein the ***liability is vested on the ECO for any contravention by the unregistered persons or persons registered under composition levy.***

It is also proposed that said ECO shall be liable to penalty as higher of: -

Rs. 10,000/-

Or

Applicable GST on such supply

Above proposed amendment shall be effective from a date to be notified.

Punishment for certain offences: - [Amendment to Section 132 of the CGST Act]

At present, various offences are prescribed under sec.132 of CGST Act are punishable under sec.132 of the CGST Act.

It is proposed to amend section 132 of CGST Act to decriminalize the following offences: -

a) obstructs or prevents any officer in the discharge of his duties under this Act;

b) tampers with or destroys any material evidence or documents;

c) Fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information.

It is also proposed to increase the monetary limit from Rs. 1 Crore to Rs. 2 Crore for launching prosecution of offences, ***except for offence in nature of issuance of invoices without supply of goods or services***. In other words, now for launching of prosecution of offence ***in nature of issuance of fake invoices,*** there shall not be any monetary limit of evasion of tax amount

Above proposed amendment shall be effective from a date to be notified.

Compounding of offences: - [Amendment to Section 138 of the CGST Act]

Nature of offences for compounding and threshold limit of amount of compounding of offences is tabulated as under: -

Particulars	Existing Provision	Proposed Provision
Nature of Offences a for Compounding	Various specified offences as per sec.132 of the CGST Act committed by registered person, ***which include offence in the nature of issuance of bogus invoices without the underlying supply***.	Various specified offences as per sec.132 of the CGST Act committed by registered person ***other than offence in the nature of issuance of bogus invoices without the underlying supply.***
Amount of Compound Offences	Minimum Amount:-Rs.10,000/- or 50% of tax, *whichever is higher* Maximum Amount:- Rs.30,000/- or 150% of tax, *whichever is higher*	Minimum Amount:-Rs.10,000/- or ***25% of tax***, *whichever is higher* Maximum Amount:- Rs.30,000/- or ***100% of tax***, *whichever is higher*

Above proposed amendment shall be effective from a date to be notified.

Consent based sharing of information furnished by registered person: - [Insertion to Section 158A of the CGST Act]

It is proposed to insert a new section 158A of the CGST Act to provide below mentioned ***specified information's furnished by the registered person shall be shared by the GST portal: -***

i. Particulars furnished at the time of registration, in GSTR-3B / Annual return;
ii. Particulars uploaded on the common portal for preparation of invoice, details of outward supplies (GSTR-1) and particulars furnished in E-way bill;
iii. Such other details as may be prescribed.

It is also proposed that for the purpose of sharing the above information, ***consent of the supplier shall be obtained***.

Further, consent of recipient shall be obtained where such details include identity information of the recipient.

Above proposed amendment shall be effective from a date to be notified.

Schedule III- Activities or transactions which shall be treated as neither supply of goods nor supply of services: -

a) Presently, Schedule III of CGST Act was amended with effect from 01 February 2019, to provide that ***no tax would be levied*** on transactions in nature of:-

b) Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India (i.e. **Merchant Trading Transactions)**;

c) Supply of warehoused goods to any person before clearance for home consumption (i.*e.* **In-bond Sales);**

d) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption (i.e. **High Sea Sales)**

However, the authorities were demanding GST on said transaction carried out ***period prior*** to 01 February 2019.

To minimize the litigation, it is proposed that above mentioned amendment was effective ***retrospectively w.e.f. 1st July 2017. Thus no tax shall be payable on the same retrospectively***

It is further proposed that no refund shall be granted to registered person of any tax has been paid on such supplies during 1st July 2017 to 31st Jan.2019.

Above proposed amendment shall be effective retrospectively w.e.f 1st July 2017.

Place of Supply in case of services by way of transportation of goods: - [Amendment to Section 12(8) of the IGST Act]

Place of supply of service by way of transportation of goods (including by mail or courier), ***where the transportation of goods is to a place outside India***, and where the ***supplier and recipient of the said supply of services are located in India***, is tabulated as under: -

Particular	Existing Provision	Proposed Amendment
Place of supply of service by way of transportation of goods (including by mail or courier), ***where the transportation of goods is to a place outside India***, and where the ***supplier and recipient of the said supply of services are located in India***	Place of Destination of goods i.e. ***foreign country where the goods are being transported.***	**In case of recipient is registered person**: - Location of *recipient of services* **In case of recipient is unregistered person: -** Location where such *goods are handed over for transportation.*

Above proposed amendment shall be effective from a date to be notified.

Amendment in definition of non-taxable online recipient: - [Section 2(16) of the IGST Act]

Existing Provision	At present, non-taxable online recipient means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose ***other than commerce, industry or any other business or profession, located in taxable territory.***
Proposed Amendment	It is proposed to amend definition of "non-taxable online recipient" to specify that ***any unregistered person*** receiving Online Information Database Access and Retrieval (OIDAR) services shall be covered, ***including a person who has taken registration solely as a TDS deductor***.

As the requirement of rendering services to a commercial concern is proposed to be removed, ***the services of OIDAR rendered even to non-business entities shall also become taxable***.

Examples of such services which will become taxable are the movies or contents downloaded by individuals from Amazon Prime, Netflix, etc. ***shall now be liable to GST***.

Above proposed amendment shall be effective from a date to be notified.

Amendment in definition of online information and database access or retrieval service: - [section 2(17) of the IGST Act]

Existing Provision	At present, "online information and database access or retrieval services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply ***essentially automated and involving minimal human intervention*** and impossible to ensure in the absence of information technology and includes electronic services such as……..
Proposed Amendment	It is proposed to amend definition of "online information and database access or retrieval service" **to remove the condition of rendering of said supply being "essentially automated & involving minimal human intervention".**

Above proposed amendment shall be effective from a date to be notified.

CUSTOMS

1. Rate changes for major items effective immediately (w.e.f 2nd February 2023)

Sr. No.	Description of goods	Old Rate	Proposed Rate
A	**Increased**		
	Chemical and petrochemical (Vinyl Chloride Monomer)	2%	2.5%
	Bicycles	30%	35%
	Toys and parts of toys (other than parts of electronic toys)	60%	70%
	Vehicle (including electric vehicles) in Completely Built Unit form	60%	70%
	Vehicle (including electric vehicles) in Semi-Knocked Down form	30%	35%
	Naphtha	1%	2.5%
	Gems and Jewellery sector	20%	25%
	Compounded Rubber	10%	25% or Rs. 30 per kg whichever is lower
	Electric Kitchen Chimney	7.5%	15%
B	**Decreased**		
	Pecan nuts	100%	30%
	Lab Grown Diamonds	5%	Nil
	Specific capital goods/machinery for manufacture of Lithium-ion cell for use in battery of electric vehicles	As applicable	Nil
	Heat Coils used in manufacturing of Electric Kitchen Chimney	20%	15%
C	The tariff heading 9801 and project import rules amended to exclude solar power plant/ solar power project from the purview of project Imports.		
D.	The government has notified increase in National Calamity Contingent Duty (NCCD) on specified cigarettes by about 16%		

2. <u>Changes in Custom Duty Law: [Effective from date of enactment of Finance Act]</u>

a) Changes with respect to validity of Conditional Exemption under Customs: - [Amendment to Section 25(4A) of the Customs Act]

Section 25(4A) restricts the validity of the conditional exemption upto 2 years from the date of grant of such exemption. **The Finance Bill proposes that restriction of two years will not apply to**:

a) Multilateral or bilateral trade agreements;
b) Obligations under international agreements, treaties, conventions etc.;
c) Privileges of constitutional authorities;
d) Exemptions issued to implement FTP schemes;
e) The Central Government schemes having validity of more than 2 years;
f) Re-imports, temporary imports, goods imported as gifts or personal baggage;
g) Exemptions relating to any duty including IGST other than duty of customs leviable under section 12.

b) Time-limit specified for disposal of Application before Settlement Commission (Amendment to Section 127C of Customs Act)

The time limit prescribed u/s 127C of Customs Act, for disposal of the application by the Settlement Commission is tabulated as below:-

Existing Provision	**9 months** from the last date of the month in which the application is filed.
Proposed Amendment	**12 months** from the last date of the month in which the application is filed.

If the settlement application is not disposed of within such period, the settlement proceeding shall abate, and the case will be reverted back to the adjudicating authority.

3. <u>Retrospective Amendment made w.e.f. 01-01-1995.</u>

Section 9, 9A and 9C of the Customs Tariff Act, are amended to clarify that the determination or review of safeguard duty or of countervailing duty or of anti-dumping duty are to be done in such manner as may be specified by rules.

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